

## SUBCHAPTER H—UTILIZATION AND DISPOSAL

### PART 101-42—UTILIZATION AND DISPOSAL OF HAZARDOUS MATERIALS AND CERTAIN CATEGORIES OF PROPERTY

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#### § 101-42.000 Scope of part.

This part prescribes the special policies and procedures governing the utilization, donation, sale, exchange, or other disposition of hazardous materials, dangerous property, and other categories of property with special utilization and disposal requirements, located within the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

#### § 101-42.001 Definitions of terms.

For the purposes of this part 101-42, the following terms shall have the meaning set forth below:

*Acid contaminated property* means property that may cause burns or toxicosis when improperly handled due to acid residues adhering to or trapped within the material.

*Biologicals* means hazardous materials which are of or pertain to the products and operations of applied biology, or any biochemical products, especially serums, vaccines, etc., produced from microorganisms.

*Certified electronic product* means any electronic product which bears the manufacturer's certification label or tag (21 CFR 1010.2) indicating that the product meets applicable radiation safety performance standards prescribed by the Food and Drug Administration under 21 CFR part 1020.

*Controlled substances* means:

(a) Any narcotic, depressant, stimulant, or hallucinogenic drug, or any other drug, other substance, or immediate precursor included in Schedules I, II, III, IV, or V of section 202 of the Controlled Substance Act (21 U.S.C. 812) except exempt chemical preparations and mixtures, and excluded substances listed in 21 CFR part 1308;

(b) Any other drug or substance that the Attorney General determines to be subject to control pursuant to Subchapter I of the Controlled Substance Act (21 U.S.C. 801 *et seq.*); or

(c) Any other drug or substance that by international treaty, convention, or protocol is to be controlled by the United States.

*Explosive contaminated property* means property that may ignite or explode when exposed to shock, flame, sparks, or other high temperature sources due to residual explosive material in joints, angles, cracks, or around bolts.

*Extremely hazardous material* means:

(a) Those materials which are hazardous to the extent that they generally require special handling such as licensing and training of handlers, protective clothing, and special containers and storage.

(b) Those materials which, because of their extreme flammability, toxicity, corrosivity or other perilous qualities, could constitute an immediate danger or threat to life and property and which usually have specialized uses under controlled conditions.

(c) Those materials which have been determined by the holding agency to endanger public health or safety or the environment if not rendered innocuous before release to other agencies or to the general public.

*Firearms* means any weapons (including flare and starter guns) which will, or are designed to, or may be readily converted to expel a projectile by the action of an explosive, the frame or receiver of any such weapons, or any muffler or silencer for such purposes. For purposes of this Part 101-42, firearms are considered to be dangerous property.

*Hazardous material* means property that is deemed a hazardous material, chemical substance or mixture, or hazardous waste under the Hazardous Materials Transportation Act (HMTA), the Resource Conservation and Recovery Act (RCRA), or the Toxic Substances Control Act (TSCA). Generally, hazardous materials have one or more of the following characteristics:

(a) Has a flash point below 200 F (93.3 C), closed cup, or is subject to spontaneous heating;

(b) Is subject to polymerization with the release of large amounts of energy when handled, stored, or shipped without adequate controls;

(c) In the course of normal operations, may produce fibers, dusts, gases, fumes, vapors, mists, or smokes which have one or more of the following characteristics:

(1) Causes 50 percent fatalities to test animals below 500 mg/kg of test animal weight when a single oral dose LD50 is used;

(2) Is a flammable solid or a strong oxidizing or reducing agent;

(3) Causes first degree burns to skin in a short time exposure, or is systemically toxic by skin contact;

(4) Has a permissible exposure limit (PEL) below 1000 p/m for gases and vapors, below 500 mg/mm<sup>3</sup> for fumes, below 30 mppcf (10 mg/m<sup>3</sup>), or 2 fibers/CM<sup>3</sup> for dust;

(5) Causes occupational chemical dermatitis, which is any abnormality of the skin induced or aggravated by the work environment which includes but is not limited to primary irritant categories, allergic sensitizers, and photo sensitizers;

(d) Is radioactive to the extent it requires special handling;

(e) Is a recognized carcinogen according to Occupational Safety and Health Administration regulations at 29 CFR part 1910; or

(f) Possesses special characteristics which in the opinion of the holding agency could be hazardous to health, safety, or the environment if improperly handled, stored, transported, disposed of, or otherwise improperly used.

*Hazardous waste* means those materials or substances, the handling and disposal of which are governed by 40 CFR part 261.

(a) In general, hazardous materials are hazardous wastes when one or both of the following is true:

(1) They have passed through the disposal cycle without having successfully been reutilized, transferred, donated, or sold, and the holding agency declares an intent to discard.

(2) They are no longer usable for their intended purpose, a valid alternate purpose, or resource recovery.

(b) In general, solid (non-hazardous) wastes, as defined at 40 CFR 261.2, become hazardous wastes when:

(1) They exhibit one or more of the characteristics of ignitability, corrosivity, reactivity, or EP toxicity; or

(2) They are predetermined hazardous wastes upon generation as listed in 40 CFR part 261, subpart D.

(c) Hazardous materials having an expired shelf life shall be reclassified as hazardous wastes if required by Federal and/or State environmental laws or regulations. Before such reclassification, the shelf life may be extended if supported by results of tests and recertification performed by authorized personnel in accordance with applicable regulations.

(d) The transportation of hazardous wastes is governed by the regulations issued by the Department of Transportation, codified in 49 CFR part 171 *et seq.*

*Lead-containing paint* means paint or other similar surface coating material that contains lead or lead compounds in excess of 0.06 percent of the weight of the total nonvolatile content of the paint or the weight of the dried paint film.

*Noncertified electronic product* means any electronic product for which there is an applicable radiation safety performance standard prescribed or hereafter prescribed by the Food and Drug Administration (FDA) under 21 CFR part 1020, and which the manufacturer has not certified as meeting such standard. The noncertification may be due to either (a) manufacture of the product before the effective date of the standard or (b) the product was exempted from the applicable standard and is so labeled.

*Nuclear Regulatory Commission—controlled materials* means those materials the possession, use, and transfer of which are subject to the regulatory controls of the Nuclear Regulatory Commission (NRC) pursuant to the Energy Reorganization Act of 1974. The materials are defined as follows:

(a) *Byproduct materials* means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material. (See 10 CFR part 30.)

(b) *Source material* means uranium or thorium, or any combination thereof, in any physical or chemical form, or ores which contain by weight one-twentieth of one percent (0.05%) or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material. (See 10 CFR part 40.)

(c) *Special nuclear material* means plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, any other materials which the NRC, pursuant to the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto, determines to be special nuclear material, or any material artificially enriched by any of the foregoing, but does not include source material. (See 10 CFR part 70.)

*Reagent* means any hazardous material which is used to detect or measure another substance or to convert one substance into another by means of the reactions it causes.

#### § 101-42.002 Requests for deviations.

Deviations from the regulations in this part shall only be granted by the Administrator of General Services (or

designee). Requests for deviations shall be made in writing to the General Services Administration (FB), Washington, DC 20406, with complete justification. A copy of the authorizing statement for each deviation, including the nature of the deviation, the reasons for such special action, and the Administrator's or designee's approval, will be available for public inspection under Subpart 105-60.3 of this title.

### **Subpart 101-42.1 [Reserved]**

### **Subpart 101-42.2—Utilization of Hazardous Materials and Certain Categories of Property**

#### **§ 101-42.200 Scope of subpart.**

This subpart prescribes the special policies and methods for the utilization and transfer of hazardous materials and other certain categories of property within the Government in addition to the requirements of part 101-43.

#### **§ 101-42.201 [Reserved]**

#### **§ 101-42.202 Identification of hazardous materials.**

(a) Current acquisition standards (Fed. Std. No. 313 and Fed. Std. No. 123) and the Federal Acquisition Regulation require that manufacturers identify and document potential hazards on material safety data sheets (MSDSs) as part of the acquisition process. Acquisition of MSDSs is also prescribed by the Occupational Safety and Health Administration (OSHA) regulations found in 29 CFR part 1910 and paragraph 1-602(c) of Executive Order 12196, Occupational Safety and Health Programs for Federal Employees, dated February 26, 1980. GSA's Federal Supply Service (4FQ) maintains an automated data base, accessible via modem and computer terminal, that contains MSDSs for all GSA-procured hazardous materials. In addition to display of the MSDS on the terminal screen, the system allows for the addition of the MSDS to the user's local data base and the transmission of the MSDS via facsimile to the user's site. Detailed instructions on how to access this system may be obtained by sending a self-addressed envelope to General Services Administration, Federal Supply Serv-

ice, Attn: MSDS Coordinator, 401 W. Peachtree St., NE, suite 3021, Atlanta, Georgia 30365.

(b) The Hazardous Materials Information System (HMIS) is a collection of MSDS information, transportation information, and disposal information that was established by the Department of Defense to assist personnel who handle, store, ship, use or dispose of hazardous materials. Each record in the data base is defined by a stock number (either national stock number or local numbers), the manufacturer's contractor and Government entity (CAGE) code, and a part number indicator which is linked to the manufacturer's part number or trade name. The data base (DoD 6050.5L) is available on microfiche and compact disc-read only memory (CD-ROM) through the Naval Computer and Telecommunication Area Master Station, Atlantic (NCTAMS LANT), Attn.: Code 911.3, Norfolk, VA 23511-5355.

(c) For items not listed or adequately described in the HMIS or on a MSDS, contact the procuring agency, the manufacturer, or your technical staff for information as to the potential hazards of the item.

(d) Some hazardous items were acquired by Federal agencies prior to implementation of the standards requiring identification of potential hazards. Identification and documentation of the hazardous nature of such items is the responsibility of the owning or holding agency. Hazardous materials are found in most Federal supply classification (FSC) classes. Section 101-42.1101 contains a table of FSC classes composed predominantly of hazardous items and a table of FSC groups and classes which contain a significant number of hazardous items. These tables are designed to assist Federal agencies in reviewing personal property inventories to identify hazardous materials.

(e) When an item has been determined hazardous, the owning Federal agency shall document the accountable inventory record accordingly. If the item has not been appropriately labeled by the manufacturer or distributor, the owning agency shall appropriately label, mark, or tag the

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item in accordance with OSHA requirements (29 CFR 1910.1200) regarding the actual or potential hazard associated with the handling, storage, or use of the item to include hazardous chemical(s) contained and the name of the chemical manufacturer, importer, or responsible party as defined at 29 CFR 1910.1200(c). Such information shall be maintained in the item record for use in preparation of reports of excess property, reassignment or transfer documentation, and other documentation requirements that may arise.

### **§ 101-42.203 Reassignment of hazardous materials.**

When hazardous materials are reassigned within an executive agency, information on the actual or potential hazard shall be included in the documentation effecting the reassignment, and the recipient organization shall perpetuate in the inventory or control records visibility of the nature of the actual or potential hazard.

### **§ 101-42.204 Reporting requirements.**

(a) Except as set forth in this 101-42.204, excess personal property which has been identified as hazardous shall be reported promptly in accordance with this part and § 101-43.4801, with a complete description of the actual or potential hazard associated with the handling, storage, or use of the item.

(b) If the hazardous characteristics of the item are adequately described on a MSDS or HMIS record (or equivalent), the reporting document should so indicate, and a copy of the MSDS or HMIS record shall be included. If no MSDS or HMIS is available, information must be obtained by the reporting activity and furnished with the reporting document. A certification by a duly authorized agency official that the item has been clearly labeled as prescribed in § 101-42.202(e) should be included in the description of the hazard. The agency official must also certify that the containers and/or packaging meet or exceed Department of Transportation specifications for a hazardous material container (49 CFR parts 178-180).

(c) Hazardous wastes shall not be reported to GSA for disposal, and shall be disposed of by the holding agency or the reporting activity only under the

Environmental Protection Agency (EPA) and State and local regulations. Holding agencies shall contact the manufacturer, the agency's technical staff, or the local State EPA office for assistance in this matter if needed.

### **§ 101-42.205 Exceptions to reporting.**

(a) When the actual or potential hazard is such that an item is determined by the holding agency to be extremely hazardous property, the item shall not be reported on Standard Form (SF) 120, Report of Excess Personal Property, unless so directed by a GSA regional office or GSA Central Office. Other items identified as hazardous shall be reported to GSA on SF 120 unless otherwise excepted by §§ 101-43.304 and 101-43.305.

(b) When an item determined to be extremely hazardous property becomes excess, the holding agency shall notify the appropriate GSA regional personal property office, identify the item, and describe the actual or potential hazard associated with the handling, storage, or use of the item. On a case-by-case basis, the GSA regional office will determine the utilization, donation, sales, or other disposal requirements, and provide appropriate guidance to the holding agency.

(c) When EPA, under its authorities, transfers accountability for hazardous materials to Federal, State, and local agencies, to research institutions, or to commercial businesses to conduct research or to perform the actual cleanup of a contaminated site, the item is not required to be reported.

### **§ 101-42.206 Special requirements for utilization of hazardous materials and certain categories of property.**

Special utilization requirements for certain categories of property are provided in § 101-42.1102. Many hazardous materials require special storage and handling. It is the responsibility of the holding agency to properly store hazardous materials and ensure the use of appropriate safeguards such as warning signs, labels, and use of protective clothing and equipment by utilization screeners who are inspecting excess hazardous materials.

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### **§ 101-42.207 Transfer of hazardous materials and certain categories of property.**

(a) Excess hazardous materials may be transferred among Federal agencies under §101-43.309-5, except that the Standard Form (SF) 122, Transfer Order Excess Personal Property, or any other transfer order form approved by GSA, shall contain a complete description of the actual or potential hazard associated with the handling, storage, or use of the item. Such description shall consist either of a written narrative, complying with the requirements of 29 CFR 1910.1200, in block 13c or as an addendum, or an MSDS or HMIS data. In the absence of an MSDS, the HMIS data which fulfills the MSDS requirements must be attached if the receiving activity does not have the HMIS readily available. Otherwise, citation to the HMIS shall be provided. A certification by a duly authorized official that the item has been clearly labeled and its packaging meets OSHA and DOT requirements as set forth in §§101-42.202(e) and 101-42.204 respectively, shall be included in the description of the hazard. The transferee shall prepare the SF 122, or any other transfer order form approved by GSA, under §101-43.4901-122.

(b) The transferee agency shall document the inventory or control record of the transferred hazardous item to clearly reflect the actual or potential hazard associated with the handling, storage, or use of the item. If available, an MSDS or a citation or copy of the HMIS data must be filed with the SF 122 or automated requisitions on approved forms. Such visibility shall be maintained in the item record and on the property (labeled) to the extent required by Federal regulations to ensure the continued identification of the item as hazardous material.

### **§ 101-42.208 Custody of hazardous materials.**

Custody of extremely hazardous materials shall be the responsibility of the owning or holding Federal agency. Custody of other hazardous materials may be transferred in whole or in part to another Federal agency with that agency's consent.

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### **§ 101-42.209 Cost of care and handling of hazardous materials and certain categories of property.**

The special handling requirements associated with many hazardous materials often increase the cost of care and handling of hazardous materials well above the usual costs incurred while holding excess personal property pending disposition. As provided in §101-43.310-1, each holding agency shall be responsible for, and bear the cost of, care and handling of excess property pending disposition, including those special costs associated with hazardous materials. Only the cost of transportation and handling incurred incident to the transfer of hazardous materials are borne by the transferee agency if billed by the holding agency in accordance with §101-43.309-3.

## **Subpart 101-42.3—Donation of Hazardous Materials and Certain Categories of Property**

### **§ 101-42.300 Scope of subpart.**

This subpart prescribes the special policies and methods governing the donation of hazardous materials and certain categories of property in addition to the requirements of part 101-44.

### **§ 101-42.301 General.**

Surplus personal property identified as hazardous material not required for transfer as excess personal property to Federal agencies shall normally be made available for donation. However, State agencies shall not acquire hazardous materials without first ensuring that there are eligible known donees for such property. Surplus property identified as hazardous may be donated provided the donee:

(a) Is informed, via MSDS, HMIS data, or written narrative, that the item is hazardous and is furnished special handling and/or other appropriate information; and

(b) Signs the following certification:

I (We) hereby certify that the donee has knowledge and understanding of the hazardous nature of the property hereby donated and will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, and disposal of the hazardous material(s). The donee agrees

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and certifies that the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the hazardous material(s) or its final disposition. Additionally, the donee agrees and certifies to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the hazardous material(s), its use, or final disposition.

### § 101-42.302 Responsibilities for donation of hazardous materials.

(a) *Holding agencies.* Holding agencies shall be responsible for the identification and reporting of hazardous materials as set forth in §§ 101-42.202 and 101-42.203. Pending transfer for donation, each holding agency shall be responsible for performing, and shall bear the cost of, care and handling of its hazardous materials.

(b) *State agencies.* State agencies or the donee when applicable, shall prepare Standard Form (SF) 123, Transfer Order Surplus Personal Property, under § 101-44.4901-123-1. A full description of the actual or potential hazard associated with handling, storage, or use of the item must be made available by providing an MSDS, HMIS data, or a narrative description in block 12c or included as an addendum to the SF 123. Such description shall comply with the requirements of 29 CFR 1910.1200. The State agency and/or donee shall sign the certification in § 101-42.301(b). Any applicable requirements and restrictions shall be forwarded with the SF 123 to the GSA regional office.

(c) *General Services Administration.* GSA, through its regional offices, shall be responsible for approving the transfer for donation of hazardous materials. Before approving any donation of a hazardous material, the GSA regional office shall make sure all required certifications and agreements accompany the SF 123.

### § 101-42.303 Hazardous materials distributed to donees by State agencies.

Donation of surplus personal property designated as hazardous material shall be accomplished by the use of State agency distribution document as set forth in § 101-44.208. In addition to

the terms, conditions, and restrictions in the distribution document, the donee shall certify to the conditions in § 101-42.301(b).

### § 101-42.304 Special requirements for donation of certain hazardous materials.

Special donation requirements for specific hazardous materials are provided in § 101-42.1102. Many hazardous materials require special storage and handling. It is the responsibility of the Federal holding agency or State agency to properly store hazardous materials, ensure the use of appropriate safeguards, and provide instructions for personal protection to donation screeners who are inspecting surplus hazardous materials. It is the responsibility of the State agency and/or donee to comply with DOT regulations (49 CFR part 171 *et seq.*) when transporting hazardous materials. Any costs incident to repacking or recontainerization will be borne by the State agency and/or donee. State agencies and/or donees will comply with EPA's Resource Conservation and Recovery Act (40 CFR part 261 *et seq.*) including its application to transporters, storers, users, and permitting of hazardous wastes. Such requirements may be administered by various States instead of the EPA.

## Subpart 101-42.4—Sale, Abandonment, or Destruction of Surplus Hazardous Materials and Certain Categories of Property

### § 101-42.400 Scope of subpart.

This subpart prescribes the special policies and procedures governing the sale, abandonment, or destruction of hazardous materials and certain categories of property in addition to the requirements of part 101-45.

### § 101-42.401 Sales responsibilities for hazardous materials.

(a) *General Services Administration.* GSA, through its regional offices, shall be responsible for the sale of hazardous materials for holding agencies except for the Department of Defense, which is delegated authority to sell property under its control, and agencies granted approval by GSA. Holding agency sales

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of hazardous materials conducted in accordance with §101-45.304 must meet or exceed the requirements in §101-42.403.

(b) *Holding agencies.* Holding agencies shall be responsible for preparation of hazardous materials for sale as provided for in §101-45.103-2. Pending disposal, each holding agency shall be responsible for performing and bearing the cost of care and handling of its hazardous materials, including posting appropriate warning signs and rendering extremely hazardous property innocuous, or providing adequate safeguards.

## § 101-42.402 Reporting hazardous materials for sale.

Holding agencies shall report hazardous materials to be sold by GSA to the appropriate GSA regional office for the region in which the property is physically located in the manner outlined below:

(a) *Reportable property.* Hazardous materials are required to be reported to the GSA regional offices for utilization screening as set forth in subparts 101-42.2 through 101-42.4 and 101-42.11. If the hazardous materials are not transferred or donated, the hazardous materials will be programmed for sale by the GSA regional office without further documentation from the holding agency.

(b) *Nonreportable property.* Under §101-42.202, Federal holding agencies are required to identify and label hazardous materials. Hazardous materials not required to be reported for utilization screening, and for which any required donation screening has been completed, shall be reported to the appropriate GSA regional office on Standard Form (SF) 126, Report of Personal Property for Sale, as provided in §101-45.303.

(c) *Description and certification.* The SF 126 shall contain a certification, executed by a duly authorized agency official, in block 16c or as an addendum, that the item has been clearly labeled and packaged as required in §§101-42.202(e) and 101-42.204. The SF 126 shall also contain or be accompanied by a full description of the actual or potential hazard associated with handling, storage, or use of the item. Such de-

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scription shall be furnished by providing:

- (1) An MSDS or copy thereof; or
- (2) A printed copy of the record, corresponding to the hazardous material being reported, from the automated HMIS; or
- (3) A written narrative, included in either block 16c or as an addendum, which complies with the requirements of 29 CFR 1910.1200.

## § 101-42.403 Sales methods and procedures.

Hazardous materials are sold in accordance with the provisions of §101-45.304 and the following special methods and procedures.

(a) Sales which offer hazardous materials shall be conducted separately from other sales. Sale catalogs or listings which offer hazardous materials shall not be mailed to all persons on the general sales mailing list but shall be sent to only those persons and entities which have expressed an interest in purchasing such materials.

(b) Sale catalogs, listings, and invitations for bids, with respect to hazardous materials, shall:

- (1) Limit the materials in each lot for sale to a single Federal supply group;
- (2) Indicate, in the item description, if an MSDS has been issued for the property being sold; and
- (3) Indicate, in the item description, if an item is being sold only for its material content.

(c) For a bid to be considered for award, the bidder must sign the following certification:

The bidder hereby certifies that if awarded a contract under this invitation for bids, the bidder will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, resale, export, or other use of the material hereby purchased. The bidder will hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or other claims of any nature arising from or incident to the handling, use, storage, shipment, resale, export, or other disposition of the hazardous items purchased.

(d) MSDSs, printed HMIS records, where applicable, or a written description in compliance with the requirements of 29 CFR 1910.1200 shall be sent



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to purchasers of hazardous materials with their notice of award.

(e) Unless authorized by the appropriate GSA regional office, a holding agency shall not sell extremely hazardous property unless the property is rendered innocuous or adequate safeguards are provided. Such property shall be rendered innocuous in a manner so as to preserve the utility or commercial value of the property.

### **§ 101-42.404 Special requirements for the sale of hazardous materials.**

Special sales requirements for certain hazardous materials are provided in § 101.42.1102. Hazardous items generally require special storage and handling. It is the responsibility of the holding agency to properly store hazardous items, to provide all necessary information to ensure that prospective bidders are informed of hazards, and to list the precautions bidders should take to protect themselves.

### **§ 101-42.405 Transportation of hazardous materials.**

The transportation of hazardous materials is governed by the hazardous materials regulations (49 CFR parts 170-180) issued by the Department of Transportation. Except as otherwise provided below, an agency official, prior to the transportation of hazardous materials, shall certify on the shipping document, based on his/her own examination, that the materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation in accordance with the hazardous materials regulations. The shipper shall provide such certification in duplicate and give one copy to the originating carrier and retain the other for no less than 1 year. Hazardous materials sold by the Department of Defense (DOD) in packings not marked under the hazardous materials regulations may be shipped from DOD installations, provided DOD certifies in writing on a certificate or equivalency (COE) that the packing meets or exceeds requirements of the hazardous materials regulations.

### **§ 101-42.406 Abandonment or destruction of surplus hazardous materials and certain categories of property.**

In addition to the requirements for the abandonment or destruction of surplus property prescribed in subpart 101-45.9, hazardous materials, including empty hazardous material containers, shall be abandoned or destroyed under Federal, State, and local waste disposal and air and water pollution control standards. Additional requirements for the abandonment and destruction of certain specific hazardous materials are contained in § 101-42.1102.

### **Subparts 101-42.5—101-42.10 [Reserved]**

### **Subpart 101-42.11—Special Types of Hazardous Materials and Certain Categories of Property**

#### **§ 101-42.1100 Scope of subpart.**

This subpart prescribes disposal procedures for certain hazardous items and lists specific Federal supply classes which may contain hazardous items.

#### **§ 101-42.1101 Federal supply classification (FSC) groups and classes which contain hazardous materials.**

(a) Hazardous material identification is required for all material which, by virtue of its potentially dangerous nature, requires controls to assure adequate safety to life, property, and the environment, and which is therefore defined as a hazardous material.

(b) The tables in paragraph (c) of this section list those FSC classes composed predominantly of hazardous materials and those FSC classes which contain a significant number of hazardous materials. Those classes that contain munitions list items (MLI) which require demilitarization are not identified in the tables because the items in those classes must be identified by the appropriate demilitarization code and processed under the procedures in § 101-42.1102-8.

(c) The tables as listed in Federal standard 313 are as follows:

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FEDERAL SUPPLY CLASSES COMPOSED  
PREDOMINANTLY OF HAZARDOUS ITEMS

*Federal Supply Class (FSC)*

6810 Chemicals  
6820 Dyes  
6830 Gases: Compressed and liquified  
6840 Pest control agents and disinfectants  
6850 Miscellaneous chemical specialties  
7930 Cleaning and polishing compounds and preparations  
8010 Paints, dopes, varnishes, and related products  
8030 Preservative and sealing compounds  
8040 Adhesives  
9110 Fuels, solid

9130 Liquid propellants and fuels, petroleum case  
9135 Liquid propellant fuels and oxidizers, chemical base  
9140 Fuel oils  
9150 Oils and greases: Cutting, lubricating, and hydraulic  
9160 Miscellaneous waxes, oils, and fats

FEDERAL SUPPLY CLASSES AND GROUPS WHICH  
CONTAIN A SIGNIFICANT NUMBER OF HAZ-  
ARDOUS ITEMS

NOTE: If an item is determined to be hazardous as defined in §101-42.001, a material safety data sheet (or equivalent) should accompany the item even though the Federal supply class is not listed in this table.

Federal supply class/grp	Title	Examples of hazardous materials requiring identification
1370 .....	Pyrotechnics .....	Warning fuse, fire starter.
1375 .....	Demolition materials .....	Explosive device.
2520 .....	Vehicular power transmission components ...	Items containing asbestos.
2530 .....	Vehicular brake steering, axle, wheel, and track components.	Items containing asbestos.
2540 .....	Vehicular furniture and accessories .....	Items containing asbestos.
2640 .....	Tire rebuilding and tire and tube repair materials.	Items containing flammable or toxic compounds.
Group 28 ..	Engines, turbines, and components .....	Engine valves containing metallic sodium.
Group 29 ..	Engine accessories .....	Engine valves containing metallic sodium.
Group 30 ..	Mechanical power transmission equipment ...	Equipment containing hazardous hydraulic fluids including PCBs.
Group 34 ..	Metalworking machinery .....	Equipment containing hazardous hydraulic fluids including PCBs.
3433 .....	Gas welding, heat cutting, and metalizing equipment.	Compressed gases.
3439 .....	Miscellaneous welding, soldering and brazing supplies and accessories.	Hazardous items such as cleaners, acids, flux and supplies that contain or produce hazardous fumes.
3610 .....	Printing, duplicating, and bookbinding equipment.	Flammable or toxic lithographic solutions.
3655 .....	Gas generating and dispensing systems, fixed or mobile.	Items that produce hazardous fumes.
3680 .....	Foundry machinery, related equipment and supplies.	Flammable or toxic casting compounds.
4240 .....	Safety and rescue equipment .....	Items which involve oxygen, or compressed gases, or contain emitting charges.
5610 .....	Mineral construction materials, bulk .....	Hazardous items such as cutback asphalt, deck and floor covering, deck and surface underlay compound, sealing compound, flight deck compound.
5660 .....	Wallboard, building paper, and thermal insulation materials.	Asbestos cloth which has loose fibers or particles that may become airborne and materials containing formaldehyde.
5820 .....	Radio and television communication equipment, except airborne.	Circuit cooler items that contain gases that are regarded as hazardous to the earth's ozone layer.
5835 .....	Sound recording and reproducing equipment	Recording tape cleaners that contain hazardous cleaning fluids.
5910 .....	Capacitors .....	Items that contain polychlorinated biphenyls (PCBs) or sulfuric acid.
5915 .....	Filters and networks .....	Items that contain polychlorinated biphenyls (PCBs).
5920 .....	Fuses and lightning arresters .....	Items that contain radioactive material.
5925 .....	Circuit breakers .....	Items that contain radioactive material.
5930 .....	Switches .....	Items containing radioactive materials.
5935 .....	Connectors, electrical .....	Kits that contain flammable chemicals.
5950 .....	Coils and transformers .....	Items containing polychlorinated biphenyls (PCBs).
5960 .....	Electron tubes and associated hardware .....	Tubes which contain radioactive isotopes and require warning labels and megnetron tubes which require special precautions when being prepared for air shipment.
5965 .....	Headsets, handsets, microphones, and speakers.	Items containing magnetic material.
5970 .....	Electrical insulators and insulating materials	Items containing flammable solvents.
5975 .....	Electrical hardware and supplies .....	Items containing asbestos.
5985 .....	Antennas, waveguide, and related equipment	Kits that contain flammable chemicals.
5999 .....	Miscellaneous electrical and oxide electronic components.	Contact plates that contain beryllium.
Group 61 ..	Electric wire and power and distribution equipment.	Power factor capacitors containing PCBs.
6120 .....	Transformers: Distribution and power station	Transformers containing PCBs.

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Federal supply class/grp	Title	Examples of hazardous materials requiring identification
6135 .....	Batteries, primary .....	Lead-acid, lithium and mercury batteries and alkaline (with electrolyte).
6140 .....	Batteries, secondary .....	Items that are wet or moist containing corrosive or other hazardous compounds.
6145 .....	Wire and cable, electrical .....	Insulated wire containing asbestos.
6220 .....	Electric vehicular lights and fixtures .....	Items that contain mercury.
6230 .....	Electric portable and hand lighting equipment .....	Items that contain wet batteries.
6240 .....	Electric lamps .....	Items that contain mercury.
6260 .....	Nonelectrical lighting fixtures .....	Items that contain mercury.
6350 .....	Miscellaneous signal and security detection systems .....	Items that contain wet batteries or radioactive material.
6505 .....	Drugs, biologicals and official reagents .....	Hazardous items as defined in § 101-42.001.
6508 .....	Medicated cosmetics and toiletries .....	Hazardous items as defined in § 101-42.001 subject to DOT Hazardous Materials Regulations.
6510 .....	Surgical dressing materials .....	Items containing flammable solvents.
6520 .....	Dental instruments, equipment, and supplies .....	Items containing flammable solvents, mercury, or asbestos.
6525 .....	X-ray equipment and supplies: medical, dental, veterinary .....	Items containing hazardous chemicals, solvents.
6625 .....	Electrical and electronic properties measuring and testing instruments .....	Items containing radioactive materials.
6640 .....	Laboratory equipment and supplies .....	Items containing flammable compounds, mercury, or asbestos.
6685 .....	Pressure, temperature, and humidity and measuring and controlling instruments .....	Items containing mercury or compressed gases.
6740 .....	Photographic .....	Items containing radioactive compounds.
6750 .....	Photographic supplies .....	Items containing hazardous chemicals, solvents, thinners, and cements.
6780 .....	Photographic sets, kits and outfits .....	Items containing hazardous chemicals, solvents, thinners, and cements.
7360 .....	Sets, kits, and outfits; food preparation and serving .....	Items containing compressed gases such as fire extinguishers.
7510 .....	Office supplies .....	Hazardous items, such as thinners, cleaning fluids, flammable inks, and varnishes.
8405 .....	Outerwear, men's .....	Maintenance kits containing flammable solvents.
8410 .....	Outerwear, women's .....	Maintenance kits containing flammable solvents.
8415 .....	Clothing, special purpose .....	Maintenance kits containing flammable solvents.
8465 .....	Individual equipment .....	Maintenance kits containing flammable solvents.
8510 .....	Perfumes, toilet preparations, and powders ..	Shipping containers, and pressurized containers with flammable or nonflammable propellants.
8520 .....	Toilet soap, shaving preparations, and dentifrices .....	Shipping containers, pressurized containers with flammable or nonflammable propellants.
8720 .....	Fertilizers .....	Items containing weed and pest control or other harmful ingredients or because of their composition, are hazardous.
9390 .....	Miscellaneous fabricated nonmetallic materials .....	Items containing flammable solvents or asbestos.
9920 .....	Smokers' articles and matches .....	Lighter fuel and matches only.
9930 .....	Memorials; cemetery and mortuary equipment and supplies .....	Items containing formaldehyde or its solutions.

### § 101-42.1102 Special requirements for utilization, donation, sale, and abandonment or destruction of hazardous materials and certain categories of property.

#### § 101-42.1102-1 Asbestos.

(a) *General.* (1) Asbestos is the common name for a group of natural minerals that occur as masses of compact or relatively long silky fibers. The Environmental Protection Agency classified asbestos as a hazardous air pollutant in 1972.

(2) Friable asbestos materials contain more than one percent asbestos by weight and can, by hand pressure, be

crumbled, pulverized, or reduced to powder, thus allowing for potential release of asbestos fibers into the air.

(3) Nonfriable asbestos materials cannot, when dry, be crumbled, pulverized, or reduced to powder by hand pressure and contain asbestos which is bonded or otherwise rendered unavailable for release into the atmosphere through normal usage. However, cutting, sanding, crushing, or performing some other disruptive action on items containing nonfriable asbestos can release asbestos fibers into the air.

(4) As noted in this § 101-42.1102-1, property containing friable asbestos

normally shall not be transferred, donated, or sold. Notwithstanding these provisions, holding agencies may, on a case-by-case basis, request approval from the GSA Central Office (which will consult with EPA) to transfer, donate, or sell such property if, in the judgement of the holding agency, special circumstances warrant such action.

(b) *Utilization requirements.* (1) Excess personal property known to contain friable asbestos shall not be reported to GSA nor transferred among Federal agencies except as noted in §101-42.205(c) or paragraph (a)(4) of this section. GSA regional offices shall return any reports of excess property containing friable asbestos to the holding agency with instructions to dispose of the property under paragraph (e) of this section.

(2) Excess personal property containing nonfriable asbestos shall be reported and processed in the normal manner, as provided for in part 101-43, except that:

(i) The Standard Form (SF) 120, Report of Excess Personal Property, and SF 122, Transfer Order, Excess Personal Property, and any other appropriate documentation shall include the following warning:

WARNING

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property. End users and new owners, if transferred, should be warned. OSHA standards for personnel protection are codified at 29 CFR 1910.1001. EPA disposal standards are codified at 40 CFR part 763.

(ii) Immediately after excess determination, all items of personal property known to contain nonfriable asbestos shall be labeled with a warning substantially as follows:

WARNING

This property contains asbestos. Inhaling asbestos fibers may cause cancer. Do not release fibers by cutting, crushing, sanding, disassembling, or otherwise altering this property.

(c) *Donation requirements.* (1) Surplus personal property containing friable asbestos shall not be donated. Such

property shall be disposed of under paragraph (e) of this section.

(2) Surplus personal property containing nonfriable asbestos may be donated in the normal manner as provided for in part 101-44, except that:

(i) The Standard Form (SF) 123, Transfer Order Surplus Personal Property, and any other appropriate documentation shall include the warning as provided by paragraph (b)(2)(i) of this section.

(ii) All items of personal property to be donated which contain nonfriable asbestos shall be labeled as provided by paragraph (b)(2)(ii) of this section.

(d) *Sales requirements.* (1) Surplus personal property containing friable asbestos shall not be sold. Such property shall be disposed of under paragraph (e) of this section.

(2) Surplus personal property containing nonfriable asbestos may be sold as provided for in part 101-45, except that:

(i) Any documentation which lists the property to be sold and which is prepared incident to the sale, and any printed matter which advertises the sale of personal property containing nonfriable asbestos shall include the warning as provided by paragraph (b)(2)(i) of this section.

(ii) All items of personal property to be sold which contain nonfriable asbestos shall be labeled as provided by paragraph (b)(2)(ii) of this section.

(e) *Abandonment and destruction.* (1) Excess or surplus personal property which contains friable asbestos shall be disposed of by burial in a site which meets the requirements of 40 CFR 61.156. Holding agencies should contact the nearest office of the Environmental Protection Agency for assistance with regard to disposal of asbestos containing materials (with the exception of Department of Defense activities which should contact the Defense Logistics Agency).

(2) Personal property containing nonfriable asbestos which is not transferred, donated, or sold shall be abandoned or destroyed as provided for in subpart 101-45.9. However, if the holding agency judges that the nonfriable asbestos contained in the property has the potential of becoming friable for

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any reason during the process of abandonment or destruction, such property shall be disposed of as provided in paragraph (e)(1) of this section.

### § 101-42.1102-2 Polychlorinated biphenyls.

(a) *General.* (1) Polychlorinated biphenyls (PCBs) are one member of a class of chlorinated aromatic compounds which have been determined to be hazardous to health and the environment. They are used, among other things, as insulators and coolants for electric cables and components such as transformers and capacitors, as additives for extreme pressure lubricants, and as coatings in foundry use.

(2) Substances containing PCBs are divided into three classes according to the concentration of PCBs present, as measured by parts per million (ppm).

(i) Zero through 49 ppm is classified as an *excluded PCB product*.

(ii) Fifty through 499 ppm PCB is classified as *PCB item*.

(iii) Five hundred or greater ppm PCB is classified as *PCB*.

(3) Excluded PCB products (0-49 ppm PCB) are not subject to Federal restrictions and may be transferred, donated, sold, or otherwise processed under parts 101-43 through 101-46 of this chapter provided such processing conforms to the provisions of this section and all applicable State and local laws. Some States regulate PCB concentrations at a stricter level than does the Federal Government.

(4) All PCBs and PCB items to be transferred, donated, or sold shall be labeled or marked conspicuously with a warning substantially as follows:

Caution—This item contains PCBs (polychlorinated biphenyls), a toxic environmental contaminant requiring special handling and disposal in accordance with the U.S. Environmental Protection Agency regulation (40 CFR 761), applicable State laws, and 41 CFR 101-42.1102-2. For proper disposal information, contact the nearest EPA office. For transportation requirements, see 49 CFR Parts 171-180.

(5) Unmarked or unlabeled items containing PCBs or PCB items with an unknown level of concentration of PCBs shall not be transferred, donated, or sold.

(b) *Utilization requirements.* (1) PCBs and PCB items are reported for utilization screening in accordance with § 101-42.204.

(2) Transfers of excess PCBs or PCB items shall not be approved by GSA unless:

(i) The items are intact, non-leaking, and totally enclosed.

(ii) The SF 122, Transfer Order Excess Personal Property, or other transfer document cites the specific provision in 40 CFR Part 761 that permits continued use of the item, and contains a certification that the property has been inspected by the transferee and complies with all the use, inspection, labeling, and other provisions of 40 CFR part 761.

(3) When a PCB or PCB item is transferred as excess to another agency, the receiving agency shall annotate its property accountability records to reflect the nature and extent of the PCB content and shall list the provisions of 40 CFR part 761 authorizing use of the item. If tests are conducted to ascertain the nature and extent of PCB contamination, the receiving agency shall furnish the GSA regional office with a copy of the test results. Such information shall be perpetuated on any notification or release documents when the agency disposes of the property.

(c) *Donation requirements.* (1) No PCB or PCB-contaminated items shall be approved by GSA for donation under part 101-44 unless:

(i) The certification required by § 101-42.1102(a)(4) appears on the SF 123, Transfer Order Surplus Personal Property;

(ii) The specific donee has been determined; and

(iii) A justification from the recipient is attached stating the proposed use of the property and citing the specific provision in 40 CFR part 761 that permits continued use of the item.

(2) All PCBs and PCB items must be in usable condition and in working order to be eligible for donation. Such items that are not in usable condition will not be approved for donation.

(3) Items to be donated must be intact, totally enclosed, and non-leaking.

(4) If PCBs or PCB items are donated to service educational activities or to

public airports, the Department of Defense or the Federal Aviation Administration, respectively, shall obtain the following signed warning and certification from the donee. State agencies for surplus property shall have the warning and certification typed or stamped on the face of each copy of the distribution document and signed and dated by the authorized representative of the donee organization at the time the property is issued.

Warning and certification:

The donee is aware that the item(s) listed as containing polychlorinated biphenyls (PCBs), a toxic environmental contaminant, require(s) special handling and disposal in accordance with U.S. Environmental Protection Agency regulation (40 CFR part 761) and U.S. Department of Transportation regulations codified in 49 CFR parts 171-180. The donee certifies that this item will be handled and disposed of in accordance with applicable Federal statutes and regulations and applicable State laws.

(d) *Sales requirements.* (1) Surplus PCBs or PCB items normally shall not be sold by GSA or holding agencies. These items are regarded as extremely hazardous and are to be disposed of by the holding agency under the Environmental Protection Agency regulations.

(2) Agencies may request the authority to sell, or that GSA sell, a specific PCB or PCB item. Such requests shall cite the provision in 40 CFR part 761 that authorizes sale and continued use of the specific item. Any such requests shall also include a justification for sale of the item rather than disposal under the EPA regulations.

(3) If PCBs or PCB items are to be sold, the corresponding invitation for bids (IFB), any Standard Form (SF) which lists such items, and any printed matter which advertises the sale of such items shall contain the warning as provided in paragraph (a)(4) of this section.

(e) *Abandonment and destruction.* (1) PCBs and PCB items of personal property not disposed of via utilization, donation, or sale shall be destroyed or otherwise disposed of in accordance with the Environmental Protection Agency regulation (40 CFR part 761) and applicable State laws.

(2) Holding agencies shall contact the nearest office of the EPA for assistance

in complying with the provisions of 40 CFR part 761.

**§ 101-42.1102-3 Controlled substances.**

(a) *Utilization requirements.* (1) Excess controlled substances are not required to be reported to GSA, but are subject to the utilization screening requirements of § 101-43.311-2. Holding agencies shall make reasonable efforts to obtain utilization of excess controlled substances by offering them to those Federal agencies which certify that they are registered with the Drug Enforcement Administration (DEA), Department of Justice, and are authorized to procure the particular controlled substances requested for transfer. The certification shall include the registration number on the DEA Form 223, Certificate of Registration, issued by DEA.

(2) Holding agencies shall arrange for transfers of controlled substances under §§ 101-43.309-5 and 101-42.207.

(3) All controlled substances that a holding agency determines to be excess shall become surplus after the holding agency has complied with the utilization requirements of paragraph (a)(1) of this section.

(b) *Donation requirements.* Controlled substances shall not be donated.

(c) *Sales requirements.* Surplus controlled substances which are not required to be destroyed as provided in paragraph (d) of this section may be offered for sale by sealed bid under subpart 101-45.3 provided:

(1) The invitation for bids (IFB):

(i) Consists only of surplus controlled substances;

(ii) Requires the normal bid deposit prescribed in § 101-45.304-10;

(iii) Is distributed only to bidders who are registered with the DEA, Department of Justice, to manufacture, distribute, or dispense the controlled substances for which the bid is being submitted; and

(iv) Contains the following special condition of sale:

The bidder shall complete, sign, and return with his/her bid the certificate as contained in this invitation. No award will be made or sale consummated until after this agency has obtained from the Drug Enforcement Administration, Department of Justice, verification that the bidder is registered to manufacture, distribute, or dispense those

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controlled substances which are the subject of the award.

(2) The following certification shall be made a part of the IFB (and contract) to be completed and signed by the bidder and returned with the bid:

The bidder certifies that he/she is registered with the Drug Enforcement Administration, Department of Justice, as a manufacturer, distributor, or dispenser of the controlled substances for which a bid is submitted and that the registration number is \_\_\_\_\_.

\_\_\_\_\_  
Name of bidder (print or type)

\_\_\_\_\_  
Signature of bidder

\_\_\_\_\_  
Address of bidder (print or type)

\_\_\_\_\_  
City, State, Zip code

(3) As a condition precedent to making an award for surplus controlled substances, the following shall be submitted to the Drug Enforcement Administration (DEA), Department of Justice, Washington, DC 20537, Attn: Regulatory Support Section (ODR):

(i) The name and address of the bidder(s) to whom an award is proposed to be made and the bidder(s) registration number(s);

(ii) The name and address of both the holding activity and the selling activity;

(iii) A description of the controlled substances, how those substances are packaged, and the quantity of substances proposed to be sold to the bidder;

(iv) The identification of the IFB by its number, and date on which such bid(s) expire(s); and

(v) A request for advice as to whether the bidder is a registered manufacturer, distributor, or dispenser of controlled substances.

(d) *Destruction of controlled substances.* Controlled substances shall not be abandoned, and destruction of controlled substances must be accomplished in accordance with the terms and conditions applicable to drugs, biologicals, and reagents under § 101-42.1102-5(d).

(1) The following shall be destroyed by the holding agency or State agency:

(i) Controlled substances determined surplus at one time and one place with an acquisition cost of less than \$500;

(ii) Controlled substances in a deteriorated condition or otherwise unusable;

(iii) Controlled substances for sale in accordance with § 101-42.1102-3(c) but for which no satisfactory or acceptable bids were received.

(2) In addition to the requirements set forth herein, each executive agency and State agency shall comply with the DEA regulations, 21 CFR 1307.21, which provide procedures for disposing of controlled substances, or with equivalent procedures approved by DEA.

(3) Destruction of controlled substances shall be performed by an employee of the holding agency or State agency in the presence of two additional employees of the agency as witnesses to that destruction unless the special agent in charge (SAC) of the DEA Divisional Office directs otherwise.

### § 101-42.1102-4 Nuclear Regulatory Commission-controlled materials.

(a) *General.* The Nuclear Regulatory Commission (NRC) has exclusive control over licensing, use, transfer, and disposition of NRC-controlled materials.

(b) *Transfer of NRC-controlled materials.* NRC-controlled materials shall not be reported to GSA as excess personal property, nor shall they be made available for excess and surplus screening as nonreportable property. Transfer and disposition of such materials do not require GSA approval and shall be accomplished only under the applicable regulations of the NRC (see 10 CFR parts 30 through 35, 40, and 70).

(c) *Information and inquiries.* All inquiries for further information or specific instructions regarding the licensing, use, transfer, or disposition of NRC-controlled materials shall be directed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555.

### § 101-42.1102-5 Drugs, biologicals, and reagents other than controlled substances.

In addition to the requirements of subparts 101-42.2 through 101-42.4, drugs, biologicals, and reagents which are fit for human use shall be reported as provided in this § 101-42.1102-5. Drugs, biologicals, and reagents that

are controlled substances are subject to the provisions of § 101-42.1102-3.

(a) *Utilization requirements.* Excess drugs, biologicals, and reagents shall be reported or otherwise made available to GSA as provided in § 101-42.204 and subpart 101-43.3. Drugs, biologicals, and reagents other than controlled substances may be separately packaged or may be components of a drug kit. Drug kits shall be clearly labeled to identify components unfit for human use. The holding agency shall destroy, as provided in paragraph (d) of this section, both separately packaged items and kit components which have been determined by the holding agency to be unfit for human use. However, items determined unfit because of expired shelf life may be transferred for animal experimental use on a case-by-case basis subject to prior approval by GSA.

(b) *Donation requirements.* Surplus drugs, biologicals, and reagents other than controlled substances which are not required to be destroyed as provided in paragraph (d) and which are not transferred pursuant to paragraph (a) of this section may be donated to eligible organizations as provided in subpart 101-42.3 and part 101-44. Drugs, biologicals, and reagents which are unfit for human use will not be offered for donation. However, items determined unfit because of expired shelf life may be donated for animal experimental use on a case-by-case basis subject to prior approval by GSA.

(1) When surplus drugs, biologicals, and reagents are considered for donation, a letter of clearance shall be obtained by the State agency or designated donee from the Food and Drug Administration (FDA) indicating that the items requested may be safely donated. The letter of clearance must accompany the SF 123. Items which do not fall within the purview of FDA, or which FDA indicates are unsuitable, will not be considered by GSA for donation.

(2) For purposes of obtaining the letter of clearance from FDA, the State agency or designated donee shall be responsible for obtaining samples from the holding agency, providing these samples to FDA, and ensuring the security of the samples while in transit. Before laboratory examinations are un-

dertaken by FDA, an estimate of the expected cost of the quality assurance examination shall be furnished by FDA to the State agency or donee. Payment of any costs for laboratory examinations for quality assurance of samples shall be arranged by the State agency or donee.

(3) Surplus drugs, biologicals, and reagents requested for donation by State agencies shall not be transported by the State agency or stored in its warehouse prior to distribution to donees. Arrangements will be made by the State agency for the donee to make direct pickup at the holding agency after approval by GSA and after notification by the holding agency that the property is ready for pickup.

(4) Standard Forms 123 from a State agency requesting surplus drugs, biologicals, and reagents for donation shall not be processed or approved by GSA until it has been determined by the GSA donation representative that the specific donee is legally licensed to administer, dispense, store, or distribute such property.

(5) The SF 123 shall also contain a statement that:

(i) The property is being requested for donation to a specific donee whose complete name and address, including the name and telephone number of the donee's authorized representative, appear on the front of the SF 123 in block 12, and that a copy of the donee's license, registration, or other legal authorization to administer, dispense, store, or distribute such property is attached and made a part of the SF 123;

(ii) The items will be distributed only to institutions licensed and authorized to administer and dispense such items or to organizations authorized to store such items; and

(iii) In addition to the normal certifications required to be executed by authorized representatives of donee institutions or organizations when property is acquired by donation, the State agency shall obtain a certification from the donee indicating that:

(A) The items transferred to the donee institution or organization will be safeguarded, dispensed, and administered under competent supervision;

(B) Adequate facilities are available to effect full accountability and proper



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storage of the items under the Federal, State, and local statutes governing their acquisition, storage, and accountability;

(C) The administration or use of the items requested shall be in compliance with the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 301-394).

(c) *Sales requirements.* Surplus drugs, biologicals, and reagents other than controlled substances which are not required to be destroyed as provided in paragraph (d) and which are not transferred pursuant to paragraph (a) or (b) of this section may be offered for sale by sealed bid under the provisions of subparts 101-45.3 and 101-42.4. The following safeguards and instructions shall be observed to ensure stability, potency, and suitability of the product and its labeling for use in civilian channels:

(1) Before reporting the surplus drugs, biologicals, and reagents to the selling agency pursuant to the provisions of §§ 101-45.303 and 101-42.402, holding agencies shall request that an examination be made by the Field Scientific Coordination Staff, ACFA-CF-30, located in the appropriate FDA district office, of surplus unexpired drugs and reagents, having an acquisition cost of \$500 or more per manufacturer's lot/batch number.

(i) When requesting such an examination, FDA requires the submission of a list and one sample of each of the drugs to be examined.

(ii) Additional samples may be requested if necessary for laboratory examination. Reimbursement for examination of the surplus drugs or reagents may be required by FDA. Before laboratory examinations are undertaken, FDA will give the inquiring agency an estimate of the expected costs. If, under subpart 101-45.9, the cost of the quality assurance is not justified by the value of the material involved, the lot or lots may be destroyed.

(iii) The reporting document prescribed in § 101-45.303(b) shall have attached to it a copy of the letter received by the reporting agency from FDA stating that the articles offered have been reviewed and may appropriately be distributed or sold, subject

when necessary to specified limitations.

(2) Surplus drugs, biologicals, and reagents normally shall not be physically transferred to the selling agency but should remain at the holding agency for precautionary and safety measures.

(3) Surplus drugs, biologicals, and reagents shall be sold only to those entities which are legally qualified to engage in the sale, manufacture, or distribution of such items.

(4) Sales of surplus drugs, biologicals, and reagents other than controlled substances shall be processed as follows:

(i) The invitation for bids (IFB) shall:

(A) Consist only of surplus drugs, biologicals, and reagents;

(B) Contain the expiration date of material being offered for sale;

(C) Describe the composition of the material being offered for sale;

(D) Require the normal bid deposit prescribed in § 101-45.304-10; and

(E) Contain the following special condition of sale:

The bidder shall complete, sign, and return with his/her bid the certification as contained in this invitation. No award will be made or sale consummated until after this agency has determined that the bidder is legally licensed to engage in the manufacture, sale, or distribution of drugs.

(ii) The following certification shall be made a part of the invitation for bids (and contract), to be completed and signed by the bidder, and returned with the bid with a copy of his/her license. Failure to sign the certification may result in the bid being rejected as nonresponsive.

The bidder certifies that he/she is legally licensed to engage in the manufacture, sale, or distribution of drugs, and proof of his/her license to deal in such materials is furnished with this bid.

\_\_\_\_\_  
Name of bidder (print or type)

\_\_\_\_\_  
Signature of bidder

\_\_\_\_\_  
Address of bidder (print or type)

\_\_\_\_\_  
City, State, ZIP code

(d) *Destruction of surplus drugs, biologicals, and reagents.* (1) Surplus drugs, biologicals, and reagents shall

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not be abandoned under any circumstances. The following shall be destroyed by the holding agency under the provisions of this paragraph (d):

(i) Surplus drugs, biologicals, and reagents determined by the holding agency to be unsafe because of deterioration or overage condition, in open or broken containers, recommended for destruction by FDA, unfit for human consumption, or otherwise unusable; and

(ii) Surplus drugs, biologicals, and reagents which have been offered for sale under the provisions of paragraph (c) of this section but for which no satisfactory or acceptable bid or bids have been received.

(2) When surplus drugs, biologicals, and reagents are required to be destroyed by the holding agency or State agency, they shall be destroyed in such a manner as to ensure total destruction of the substance to preclude the use of any portion thereof. When major amounts are to be destroyed, the action shall be coordinated with local air and water pollution control authorities.

(3) Destruction of surplus drugs, biologicals, and reagents shall be performed by an employee of the holding agency or State agency in the presence of two additional employees of the agency as witnesses to that destruction.

(i) Disposal of Resource Conservation and Recovery Act (RCRA) regulated, noncontrolled, condemned hazardous substances in Federal supply class (FSC) 6505 shall be destroyed without the witnessing by two employees of the agency. The controls which the Environmental Protection Agency places upon the disposal of RCRA regulated noncontrolled drugs, 40 CFR part 260 *et seq.*, are sufficiently stringent to ensure that these drugs will be destroyed without agency witnessing.

(ii) It is the holding agency's responsibility to take all necessary measures to ensure that contractor performance is in accordance with the provisions of this §101-42.1102-5.

(4) When surplus drugs, biologicals, and reagents have been destroyed, the fact, manner, and date of the destruction and type and quantity destroyed shall be so certified by the agency em-

ployee charged with the responsibility for that destruction. The two agency employees who witnessed the destruction shall sign the following statement, except as noted in paragraph (d)(3) of this section, which shall appear on the certification below the signature of the certifying employee:

I have witnessed the destruction of the (drugs, biologicals, and reagents) described in the foregoing certification in the manner and on the date stated herein:

Witness \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Date \_\_\_\_\_

(5) Items mentioned parenthetically in the statement contained in paragraph (d)(5) of this section which are not applicable at the time of destruction shall be deleted from the statement. The signed certification and statement of destruction shall be made a matter of record and shall be retained in the case files of the holding agency or State agency.

**§ 101-42.1102-6 Noncertified and certified electronic products.**

(a) *Utilization requirements.*(1) Excess electronic items for which radiation safety performance standards are prescribed by FDA under 21 CFR Part 1000 shall be reported or otherwise made available for transfer to Federal agencies under subparts 101-43.3 and 101-42.2. Excess reports shall identify noncertified electronic products and shall contain a statement that the items may not be in compliance with applicable radiation safety performance standards prescribed by FDA under 21 CFR Part 1000. Certified electronic products may be reported and transferred under the procedures in part 101-43.

(2) Transfers of noncertified electronic products among Federal agencies shall be accomplished as set forth in §§101-42.207, 101-43.309, and paragraph (a) of this section. The transfer order must contain a certification that the transferee is aware of the potential danger in using the item without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR Part 1000 and agrees to accept the item from

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the holding agency under these conditions.

(b) *Donation requirements.* (1) Surplus noncertified and certified electronic products not required for transfer as excess personal property to Federal agencies under paragraph (a) of this section shall be made available for donation screening as provided in subpart 101-42.3 and part 101-44 and as follows:

(i) Under paragraph (b)(2) of this section in the case of:

(A) Noncertified color television receivers;

(B) Certified and noncertified diagnostic X-ray systems and their major components;

(C) Certified and noncertified cabinet X-ray systems;

(D) Noncertified laser products; or

(E) Any other electronic products subject to an FDA performance standard.

(ii) Only under conditions of destructive salvage in the case of noncertified cold-cathode gas discharge tubes, noncertified black and white television receivers, and noncertified microwave ovens.

(2) Donation of electronic products designated in paragraph (b)(1)(i) of this section shall be accomplished as provided in §101-44.109 provided the State agency, Department of Defense (DOD), or Federal Aviation Administration (FAA):

(i) Provides the applicable State radiation control agency (see §101-45.4809) with a copy of the SF 123 and the name and address of the donee; and

(ii) Requires the donee to certify on the SF 123 that it:

(A) Is aware of the potential danger in using the product without a radiation test to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR part 1000, and agrees to accept the item from the holding agency for donation under those conditions;

(B) Agrees the Government shall not be liable for personal injuries to, disabilities of, or death of the donee or the donee's employees, or any other person arising from or incident to the donation of the item, its use, or its final disposition; and

(C) Agrees to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the donation of the item, its use, or its final disposition.

(c) *Sales requirements.* (1) The sale of the following certified and noncertified surplus electronic products which are not required for transfer or donation shall be accomplished under §101-45.304, subpart 101-42.4, and the special conditions of sale in this paragraph (c).

(i) Noncertified color and black and white television receivers;

(ii) Noncertified microwave ovens;

(iii) Noncertified and certified diagnostic X-ray systems and their major components;

(iv) Noncertified and certified cabinet X-ray systems;

(v) Noncertified laser products;

(vi) Noncertified cold-cathode gas discharge tubes under conditions of scrap or destructive salvage; and

(vii) Any other noncertified electronic product for which FDA may promulgate a performance standard.

(2) The IFB shall contain a notice to bidders substantially as follows:

Purchasers are warned that the item purchased herewith may not be in compliance with Food and Drug Administration radiation safety performance standards prescribed under 21 CFR part 1000, and use may constitute a potential for personal injury unless modified. The purchaser agrees that the Government shall not be liable for personal injuries to, disabilities of, or death of the purchaser, the purchaser's employees, or to any other persons arising from or incident to the purchase of this item, its use, or disposition. The purchaser shall hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to purchase or resale of this item. The purchaser agrees to notify any subsequent purchaser of this property of the potential for personal injury in using this item without a radiation survey to determine the acceptability for use and/or modification to bring it into compliance with the radiation safety performance standard prescribed for the item under 21 CFR part 1000.

(3) Within 30 calendar days following award, the selling agency shall provide the State radiation control agency for the State in which the buyer is located (see §101-45.4809) with a written notice of the award that includes the name

and address of the purchaser and the description of the item sold.

(d) *Abandonment or destruction.* Non-certified and certified electronic products shall be abandoned under the provisions of subpart 101-45.9 and § 101-42.406.

**§ 101-42.1102-7 Lead-containing paint and items bearing lead-containing paint.**

(a) *General*—(1) *Health hazard.* Lead is a cumulative toxic heavy metal which, in humans, exerts its effects on the renal, hematopoietic, and nervous systems. Lead poisoning occurs most commonly when lead-containing paint chips in the environment are chewed or ingested by children or when lead-containing paint is burned off.

(2) *Banned hazardous products.* The following consumer products, in accordance with 16 CFR part 1303 and exemptions stated therein unless exempted by 16 CFR part 1303, are banned hazardous products:

(i) Paint and other similar surface coating materials for consumer use which are included within the definition of lead-containing paint.

(ii) Toys and other articles intended for use by children that bear lead-containing paint.

(iii) Furniture articles that bear lead-containing paint.

(3) *Disposal of banned hazardous products.* When a banned hazardous product described in paragraph (a)(2) of this section becomes excess to a holding agency, it shall be destroyed under paragraph (e) of this section except that those furniture articles that bear lead-containing paint may be stripped and refinished with a nonhazardous coating in lieu of destruction. Stripping shall be in conformance with Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.1025 which specify maximum permissible levels of exposure to airborne concentrations of lead particles and set forth methods of protection.

(4) *Exemptions.* (i) The categories of products listed in paragraph (a)(4)(ii) of this section are exempted from the scope of the ban established by 16 CFR Part 1303, provided that before any utilization, donation, or sales action:

(A) These products bear on the main panel of their label, in addition, to any labeling that may be otherwise required, the signal word *Warning* and the following statement: *Contains Lead. Dried Film of This Paint May be Harmful If Eaten or Chewed.*

(B) These products also bear on their label the following additional statement or its practical equivalent:

Do not apply on toys and other children's articles, furniture, or interior surfaces of any dwelling or facility which may be occupied or used by children. Do not apply on exterior surfaces of dwelling units, such as window sills, porches, stairs, or railings, to which children may be commonly exposed.

KEEP OUT OF REACH OF CHILDREN

(C) The additional labeling requirements contained in 16 CFR 1303.3 and 16 CFR 1500.121 are followed.

(ii) The following products are exempt from the scope of the ban established by 16 CFR part 1303, provided they comply with the requirements of paragraph (a)(4)(i) of this section:

(A) Agricultural and industrial equipment refinish coatings.

(B) Industrial (and commercial) building and equipment maintenance coatings, including traffic and safety marking coatings.

(C) Graphic art coatings (i.e., products marketed solely for application on billboards, road signs, and similar uses and for identification marking in industrial buildings).

(D) Touchup coatings for agricultural equipment, lawn and garden equipment, and appliances.

(E) Catalyzed coatings marketed solely for use on radio-controlled model-powered aircraft.

(iii) The following products are exempt from the scope of the ban established by 16 CFR part 1303 (no cautionary labeling is required):

(A) Mirrors which are part of furniture articles to the extent that they bear lead-containing backing paint.

(B) Artists' paints and related materials.

(C) Metal furniture articles (but not metal children's furniture) bearing factory-applied (lead) coatings.

(b) *Utilization requirements.* (1) Excess lead-containing paint and consumer products bearing lead containing paint which are exempt from the scope of the

ban and are properly labeled as required by 16 CFR part 1303 and paragraph (a)(4) of this section shall be reported or otherwise made available to GSA under §§ 101-43.311 and 101-42.204.

(2) Lead-containing paint and consumer products bearing lead-containing paint available for further Federal use as provided in paragraph (b)(1) of this section may be transferred under §§ 101-43.309 and 101-42.207. The warning statement on the transfer order shall be substantially the same as the label statements required by paragraphs (a)(4)(i) (A) through (C) of this section, and such information shall be made a part of the accountable record of the transferee agency.

(c) *Donation requirements.* (1) Surplus lead-containing paint and consumer products bearing lead-containing paint which are exempt from the scope of the ban, and are properly labeled as required by 16 CFR part 1303 and paragraph (a)(4) of this section may be donated.

(2) The hazardous warning statement on the SF 123 shall be the same as the label statements required by paragraphs (a)(4)(i) (A) through (C) of this section. The recipient shall maintain the hazardous warning statements in the inventory records for the property and furnish appropriate warning information to subsequent recipients. The SF 123 and any other transaction documentation for such property shall contain a certification substantially as follows:

The property requested herein shall be used only as specified in 16 CFR 1303.3 and in no case shall be contacted by children. I agree the Government shall not be liable for personal injuries to, disabilities of, or death of the donee's employees, or any other person arising from or incident to the donation of this property, its use, or its final disposition; and to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions or claims of any nature arising from or incident to the donation of this property, its use, or its final disposition.

(d) *Sales requirements.* (1) Lead-containing paint and consumer products bearing lead-containing paint which are exempt from the scope of the ban and are properly labeled as required by 16 CFR part 1303 and paragraph (a)(4) of this section may be sold under § 101-

45.304, Subpart 101-42.4, and the special requirements of this paragraph (d).

(2) IFBs for such property shall clearly state the hazardous warning statements contained in paragraphs (a)(4)(i) (A) through (C) of this section and appropriate agreement clauses. The bid page shall contain a certification substantially as follows which must be properly executed. Failure to sign the certification may result in the bid being rejected as nonresponsive.

I certify that I have read and fully comprehend the aforementioned terms and conditions of this sale. I shall comply with the applicable Consumer Product Safety Commission regulations set forth in 16 CFR part 1303 if I am the successful bidder. I further agree the Government shall not be liable for personal injuries to, disabilities of, or death of any persons arising from or incident to the sale of this property, its uses, or its final disposition; and to hold the Government harmless from any or all debts, liabilities, judgments, costs, demands, suits, actions, or claims of any nature arising from or incident to the sale of this property, its use, or its final disposition.

(3) Lead-containing paint and consumer products bearing lead-containing paint shall not be sold under the limited sales by holding agencies authority in § 101-45.304.

(e) *Abandonment and destruction.* In no case shall lead-containing paint or consumer products bearing lead-containing paint be abandoned in a manner that would allow acquisition and use of such property. Such products shall be disposed of under § 101-42.406. Empty cans/drums in which lead-containing paint was stored shall also be disposed of in accordance with this § 101-42.1102-7.

**§ 101-42.1102-8 United States Munitions List items which require demilitarization.**

(a) *General.* The United States Munitions List is located in 22 CFR part 121. A system of demilitarization codes has been developed and an appropriate code assigned to each Munitions List Item (MLI) to describe what, if any, restrictions or actual demilitarization requirements apply to each item. These codes, in addition to demilitarization policy and procedures for all surplus military items which are owned, procured by, or under the control of the

Department of Defense, are contained in the Defense Demilitarization Manual (DoD 4160.21-M-1). This §101-42.1102-8 applies only to MLIs and is to be used in conjunction with guidance in parts 101-42, 101-44, and 101-45.

(b) *Utilization requirements.* (1) Federal agencies acquiring MLIs which require demilitarization shall perpetuate the demilitarization codes in their property records and on subsequent reports of excess personal property submitted to GSA. Demilitarization shall be a condition of transfer of excess MLIs.

(2) Utilization without demilitarization of other than classified material is authorized only under the conditions cited in the Defense Demilitarization Manual, DoD 4160.21-M-1.

(c) *Donation requirements.* (1) Donation without demilitarization of other than classified material is authorized only under the conditions cited in the Defense Demilitarization Manual, DoD 4160.21-M-1.

(2) A State agency requesting the transfer of donation of MLIs identified as requiring demilitarization shall include the appropriate demilitarization code on the SF 123, and a statement that the State agency will obtain from the donee a certification that prior to further disposition, demilitarization of the property shall be performed by the donee under the demilitarization instructions for the code as set forth in the Defense Demilitarization Manual, DoD 4160.21-M-1. In the case of MLIs requested for donation by service educational activities or public airports pursuant to the provisions of subparts 101-44.4 and 101-44.5 respectively, the donee shall include a statement on the SF 123 certifying that appropriate demilitarization of the property will be accomplished under the requirements of the codes before further disposition.

(3) Before disposing of MLIs identified as requiring demilitarization, donees may request demilitarization instructions from GSA through the State agency if the donation was made pursuant to subpart 101-44.2. Demilitarization instructions for such items donated to public airports, under subpart 101-44.5, may be requested through the Federal Aviation Administration. Demilitarization instructions for such items donated to service educational

activities under subpart 101-44.4 may be obtained directly from the Item Technical Manager within DOD for the item involved.

(4) Demilitarization of property to be donated to public bodies under subpart 101-44.7 shall be accomplished in a manner to preserve so far as possible any civilian use or commercial value of the property, as prescribed in the minimum demilitarization requirements of the Defense Demilitarization Manual, DoD 4160.21-M-1.

(d) *Sales requirements.* (1) Except for sales authorized by statute, sales of "explosives" and "ammunition components" authorized by paragraphs (d) (2) and (3) of this section, or specialized sales authorized by the Secretary of Defense, MLIs identified as requiring demilitarization shall not be reported for public sale without first being demilitarized under the requirements of the assigned code in the Defense Demilitarization Manual, DoD 4160.21-M-1 or requiring demilitarization under the terms and conditions of sale. GSA will, as necessary, refer technical questions on demilitarization to the Department of Defense.

(2) *Explosives.* For the purpose of this section, the term *explosive* means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, igniters, and any other items appearing in the explosives list issued by the Secretary of the Treasury (18 U.S.C. 841(d)). The explosives list is published and revised at least annually in the Federal Register by the Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, as required by 27 CFR 55.23. The following procedures shall apply in any disposal of explosives:

(i) All explosives offered for sale shall be properly identified in the offering with respect to their hazardous characteristics.

(ii) All explosives shall be labeled by the holding agency before shipment so that their hazardous or dangerous

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character will be immediately evident upon inspection.

(iii) Purchasers of explosives shall be required, as a condition of sale, to execute the following certification:

It is hereby certified that the purchaser will comply with all applicable Federal, State, and local laws, ordinances, and regulations with respect to the care, handling, storage, shipment, resale, export, and other use of the materials, hereby purchased, and that he/she is a user of, or dealer in, said materials and will comply with all applicable Federal, State, and local laws. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

(3) *Ammunition components.* The term “ammunition components” means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm. The transportation of primers or propellant powder is governed by the Hazardous Materials Regulations (49 CFR parts 170-189) promulgated by the Department of Transportation. Purchasers of such materials are responsible to certify, based on their own examination, that the materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation in accordance with the Hazardous Materials Regulations. So that bidders will be notified of the special requirements concerning the purchase and transportation of usable ammunition components, the following statement shall be included in the IFBs and shall be made a part of the contract by including in it the bid form to be submitted by the bidders:

Item No. \_\_\_\_\_ contains ammunition components offered for sale in this invitation. The undersigned certifies that he/she will comply with all applicable local, State, and Federal laws and regulations concerning ammunition components.

(4) *Scrap ammunition components.* Ammunition components not usable or suitable for reuse as components of ammunition shall be reported and may be sold as scrap (for basic material content). With regard to such sale, the following statement shall be included in the invitation for bid and shall be made a part of the contract:

I, \_\_\_\_\_, certify that ammunition components purchased by me as Item No. \_\_\_\_\_, will not be used for the original manufactured purpose.

(e) *Abandonment and destruction requirements.* Besides the requirement of subpart 101-45.9, surplus munitions list items which require demilitarization shall be abandoned or disposed of under the requirements of §101-42.406, but only after performance of demilitarization under the requirements of the assigned code in the Defense Demilitarization Manual, DoD 4160.21-M-1.

### § 101-42.1102-9 Acid contaminated and explosive contaminated property.

(a) *Utilization requirements.* (1) Acid contaminated or explosive contaminated property shall be considered extremely hazardous property, and as such is not to be reported to GSA as excess personal property. Such property may be available for transfer to qualified recipients; i.e., those who are able to submit valid justifications as required by paragraph (a)(3) of this section.

(2) Excess acid contaminated or explosive contaminated property shall be properly labeled under the labeling requirements of §101-42.204.

(3) With the authorization of the appropriate GSA regional office, holding activities may transfer acid contaminated or explosive contaminated property in conformance with the requirements of §§101-43.309-5 and 101-42.207. In addition, the requesting agency must submit a written justification with the transfer order explaining the specific need for and the anticipated uses of the requested acid or explosive contaminated property, and certify that personnel in contact with the property shall be informed of the hazard and shall be qualified to safely handle or use it.

(4) The degree of decontamination and the responsibility for performance and costs of any decontamination shall be upon such terms as agreed to by the owning agency and the receiving agency.

(5) The receiving agency is responsible for all transportation arrangements and costs of acid contaminated or explosive contaminated property approved for transfer. Such property

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shall be transported in compliance with § 101-42.405.

(b) *Donation requirements.* Acid contaminated and explosive contaminated property may be donated only with the authorization of the appropriate GSA regional office.

(c) *Sales requirements.* (1) With the authorization of the appropriate GSA regional office, holding activities may sell acid contaminated or explosive contaminated property under § 101-45.304, subpart 101-42.4, and the additional special requirements of this paragraph (c). Agencies shall include in reports of such property for sale on SF 126, a statement of the degree of contamination and any decontamination that has been performed, such as a washdown.

(2) Acid or explosive contaminated property shall be considered extremely hazardous property as defined in § 101-42.001, and shall be described as such in sales offerings. Normally, acid or explosive contaminated property shall be sold with a condition that the purchaser sufficiently decontaminate the property to the degree that it is no longer extremely hazardous.

(3) IFBs for acid or explosive contaminated property shall clearly state the specific hazards associated with the items offered, along with known special handling, transportation, and personnel protection requirements. The bid page shall contain a certification substantially as follows which must be properly executed by the bidder in order for the bid to be responsive:

CERTIFICATION: It is hereby certified that the purchaser will comply with all the applicable Federal, State, and local laws ordinances and regulations with respect to the care, handling, storage, and shipment, resale, export, and other use of the materials, hereby purchased, and that he/she is a user of, or dealer in, said materials and will comply with all applicable Federal, State, or local laws and regulations. This certification is made in accordance with and subject to the penalties of Title 18, Section 1001, the United States Code, Crime and Criminal Procedures.

(d) *Abandonment and destruction.* Acid contaminated or explosive contaminated property shall not be abandoned, and when destroyed, such destruction shall be accomplished under the provi-

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sions of subparts 101-45.9 and § 101-42.406.

### § 101-42.1102-10 Firearms.

(a) *Utilization requirements.* (1) In accordance with § 101-43.4801(c) of this chapter, reports of excess reportable firearms and requests for their transfer must be submitted to the:

General Services Administration (7FP-8),  
Denver, CO 80225-0506.

(2) Firearms may be transferred only to those Federal agencies authorized to acquire firearms for official use. Such transfers must be executed under § 101-43.309-5 of this chapter and, when applicable, § 101-42.1102-8(b). Additional written justification from the requesting agency may be required.

(b) *Donation requirements.* (1) Only handguns, rifles, shotguns, and individual light automatic weapons, all less than .50 caliber in FSC 1005, and rifle and shoulder fired grenade launchers in FSC 1010, assigned a disposal condition code of 4 or better, as defined in § 101-43.4801(e) of this chapter, may be offered by GSA (7FP-8) to State agencies for donation to eligible law enforcement entities for law enforcement purposes only. Donations are limited to only those eligible law enforcement entities whose primary function is the enforcement of applicable Federal, State, and/or local laws, and whose compensated law enforcement officers have powers to apprehend and arrest. Such donations must be executed under § 101-42.1102-8(c) as applicable.

(2) Each SF 123 submitted to GSA must be accompanied by a conditional transfer document, signed by both the intended donee and the State agency, and containing the special terms, conditions, and restrictions prescribed by GSA, and any other required forms or information.

(3) The restrictions on donated firearms shall be in perpetuity, and they may not be released by the State agency without prior written approval from GSA. The donee must notify the State agency when donated firearms are no longer needed. The State agency may, with GSA approval, reassign firearms from one donee to another donee within the state or to another SASP (see



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§101-44.205(f) of this chapter); otherwise, firearms must be delivered directly to the place of destruction to be destroyed by either the donee or the State agency. Destruction must be such that each complete firearm is rendered completely inoperable and incapable of being made operable for any purpose except for the recovery of basic material content in accordance with paragraph (c) of this section. The donee and a representative from the State agency, or designee, must both state in writing that the firearms were so destroyed and the original signed statement must be maintained by the State agency.

(4) Surplus firearms approved for donation must be shipped or transported directly from the holding Federal agency to the donee, and may not be stored in the State agency warehouse; or, arrangements may be made by the State agency for the designated donee to make a direct pickup at the holding agency.

(5) Firearm ammunition may not be donated.

(c) *Sales requirements.* Surplus firearms may be sold only for scrap after total destruction by crushing, cutting, breaking, or deforming to be performed in a manner to ensure that the firearms are rendered completely inoperative and to preclude their being made operative. Such sale shall be conducted under subpart 101-45.3.

(d) *Foreign gifts of firearms.* Firearms reported to GSA as foreign gifts may be offered for transfer to Federal agencies, including law enforcement activities. Foreign gifts of firearms shall not be donated. Such gifts not required for Federal use may be sold only to the gift recipient at the discretion of GSA. A certification that the purchaser shall comply with all State and local laws regarding purchase and possession of firearms must be received by GSA prior to release of such firearms to the purchaser. Firearms not transferred to a Federal agency or sold to the recipient shall be disposed of in accordance with paragraph (c) or (e) of this section.

(e) *Abandonment and destruction of firearms.* Firearms shall not be abandoned. Destruction of firearms is subject to the requirements set forth in paragraph (c) of this section. Such de-

struction shall also be accomplished under the provisions of subpart 101-45.9, §101-42.406 and, when applicable, §101-42.1102-8.

(f) *Abandoned and forfeited firearms.* In addition to the requirements of this part 101-42, forfeited or voluntarily abandoned firearms shall be subject to the provisions of part 101-48.

[57 FR 39121, Aug. 28, 1992, as amended at 64 FR 40772, July 28, 1999]

### PART 101-43—UTILIZATION OF PERSONAL PROPERTY

AUTHORITY: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

SOURCE: 65 FR 31218, May 16, 2000, unless otherwise noted.

#### §101-43.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

For information on the disposition of excess personal property previously contained in this part, see FMR part 36 (41 CFR part 102-36).

### PART 101-44—DONATION OF SURPLUS PERSONAL PROPERTY

AUTHORITY: 40 U.S.C. 486(c); Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 2584, Jan. 18, 2002, unless otherwise noted.

#### §101-44.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

For information on donation of surplus personal property previously contained in this part, see FMR part 102-37 (41 CFR part 102-37).

### PART 101-45—SALE, ABANDONMENT, OR DESTRUCTION OF PERSONAL PROPERTY

Sec.

101-45.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

101-45.001 Demilitarization and decontamination.

101-45.002 Gold.

101-45.003 Vehicle reconditioning.

## § 101-45.000

101-45.004 All terrain vehicles.

AUTHORITY: 40 U.S.C. 545 and 121(c).

SOURCE: 68 FR 51420, Aug. 26, 2003, unless otherwise noted.

### § 101-45.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

For information on the sale of personal property previously contained in this part, see FMR part 38 (41 CFR part 102-38).

#### § 101-45.001 Demilitarization and decontamination.

(a) Dangerous material shall not be disposed of pursuant to part 102-38 of the Federal Management Regulation (FMR) without first being demilitarized or decontaminated when a duly authorized official of the executive agency concerned determines this action to be in the interest of public health, safety, or security. This may include rendering the property innocuous, stripping from it any confidential or secret characteristics, or otherwise making it unfit for further use.

(b) Demilitarization or decontamination of property to be donated to public bodies pursuant to part 102-37 of the FMR shall be accomplished in a manner so as to preserve so far as possible any civilian utility or commercial value of the property.

(c) Except for those sales otherwise authorized by part 101-42 of the Federal Property Management Regulations or other statutes, and for specialized sales authorized by the Secretary of Defense, U.S. Munitions List items identified as requiring demilitarization shall not be reported for public sale without first being demilitarized or requiring demilitarization to be a part of the terms and conditions of sale. The General Services Administration may refer technical questions on demilitarization to the Department of Defense for advice.

#### § 101-45.002 Gold.

(a) Gold will be sold in accordance with this section and part 102-38 of the Federal Management Regulation.

(b) Sales of gold shall be processed to—

(1) Use the sealed bid method of sale;

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(2) Require a 20 percent bid deposit;

(3) Certify all forms of bid deposit and payments; and

(4) Include in the invitation for bids only gold and such other precious and semiprecious materials as may be available for sale at that time.

(c) Each agency generating scrap gold and also having a continuing need for fine gold may arrange for the acceptance of scrap gold for fine gold with a private contractor or the Defense Logistics Agency.

#### § 101-45.003 Vehicle reconditioning.

(a) For the purpose of this section, vehicle reconditioning means restoring or improving the appearance of any motorized passenger or cargo vehicle designed primarily for highway use that is to be disposed of through surplus or exchange/sale procedures to the general public.

(b) To produce the maximum net proceeds, holding agencies shall determine, prior to sale, the appropriate level of reconditioning commensurate with the estimated fair market value of each vehicle scheduled for sale.

(c) Holding agencies shall arrange for the reconditioning to be accomplished just prior to the dates scheduled for public inspection and sale.

(d) For all motor vehicles above salvage condition or value, the minimum level of reconditioning required is as follows:

(1) For the driver and passenger compartment—

(i) Remove debris;

(ii) Vacuum floors and seats;

(iii) Clean dashboard, instrument panel, armrests, door panels, and rear shelf;

(iv) Remove Government stickers or decals without marring surface;

(v) Clean ashtrays and glove compartment; and

(vi) Wash windows.

(2) For the trunk—

(i) Remove debris;

(ii) Vacuum; and

(iii) Position spare tire and tools.

(3) For the engine compartment—

(i) Remove debris;

(ii) Replenish lubricants and coolant to required levels and replace missing caps/covers; and

(iii) Charge battery, if necessary.

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(4) For the exterior—  
(i) Remove Government stickers or decals without marring paint finish;

(ii) Wash exterior, including glass, door jambs, tires, and wheel rims/covers; and

(iii) Inflate tires to recommended pressure.

(e) Additional reconditioning of selected motor vehicles should be considered when such action is expected to substantially improve the return on the sale of a vehicle. Generally, a return of \$2 for each dollar invested should be estimated to justify additional reconditioning. Additional reconditioning should include some or all of the following:

(1) For the driver and passenger compartment—

(i) Shampoo seats, dashboard, headliner, door panels, and floor covering;

(ii) Spray-dye floor carpets and mats;

(iii) Polish where appropriate;

(iv) Apply vinyl/rubber reconditioners where appropriate; and

(v) Replace missing knobs, nameplates, and light lenses and/or bulbs.

(2) For the trunk—

(i) Wash interior surface; and

(ii) Spray-dye mats.

(3) For the engine compartment—

(i) Clean major surface areas (air cleaner cover, battery, *etc.*);

(ii) Wash or steam clean, when necessary;

(iii) Replace air and fuel filters; and

(iv) Make minor adjustments and/or replacements to engine systems (electrical, fuel, cooling, *etc.*) to ensure that the vehicle will start and idle correctly during inspection by prospective purchasers.

(4) For the exterior—

(i) Rotate tires, including the spare, to ensure that the best tires are displayed on the vehicle. Properly inflate, clean, and apply rubber conditioner or black tire paint to all tires;

(ii) Wash and blacken wheel splash shields;

(iii) Apply touch-up paint to nicks and scratches;

(iv) Wax and polish;

(v) Replace missing or damaged molding, nameplates, lenses, caps, mirrors, antennas, and wheel covers;

(vi) Repaint exterior of vehicle to original factory color if scrapes, dings, *etc.*, are excessive;

(vii) Repair minor body damage;

(viii) Apply decorative molding and/or striping to add eye appeal; and

(ix) Obtain State safety and/or emission control inspections, if required.

(f) Reconditioning, when possible, should be accomplished no earlier than the calendar week prior to the scheduled sale date.

(g) Agencies should contact the nearest General Services Administration Federal Supply Service Bureau office for information regarding the availability of reconditioning services.

(h) The expense of reconditioning is the responsibility of the holding agency.

### § 101-45.004 All terrain vehicles.

(a) Three-wheeled all terrain vehicles (ATVs) may be offered for public sale only after they have been mutilated in a manner to prevent operational use.

(b) Four-wheeled ATVs no longer needed by the Government can be exchanged with a dealer under the provisions of part 102-39 of the Federal Management Regulation. If the unit cannot be exchanged, four-wheeled ATVs may be offered for public sale only after they have been mutilated in a manner to prevent operational use.

## PART 101-46—REPLACEMENT OF PERSONAL PROPERTY PURSUANT TO THE EXCHANGE/SALE AUTHORITY

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

SOURCE: 67 FR 48614, Sept. 21, 2001, unless otherwise noted.

### § 101-46.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).

For information on replacement of personal property pursuant to the exchange/sale authority previously contained in this part, see FMR part 39 (41 CFR part 102-39).

## PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

AUTHORITY: 40 U.S.C. 486(c); The Federal Property and Administrative Services Act of 1949, as amended, Sec. 205(c), 63 Stat. 390.

SOURCE: 67 FR 76883, Dec. 13, 2002, unless otherwise noted.

### § 101-47.0 Cross-reference to the Federal Management Regulation (FMR) 41 CFR chapter 102 parts 1 through 220).

For information on utilization and disposal of real property, see FMR part 102-75 (41 CFR part 102-75).

## PART 101-48—UTILIZATION, DONATION, OR DISPOSAL OF ABANDONED AND FORFEITED PERSONAL PROPERTY

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- 101-48.001-3 Eleemosynary institution.
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### Subpart 101-48.3—Disposal of Abandoned and Forfeited Personal Property

- 101-48.300 Scope of subpart.
- 101-48.301 General.
- 101-48.302 Distilled spirits, wine, and malt beverages.
- 101-48.303 Firearms.
- 101-48.304 Drug paraphernalia.
- 101-48.305 Property other than distilled spirits, wine, malt beverages, firearms, and drug paraphernalia.
- 101-48.306 Disposition of proceeds from sale.
- 101-48.306-1 Abandoned or other unclaimed property.
- 101-48.306-2 Forfeited or voluntarily abandoned property.

### Subparts 101-48.4—101-48.48 [Reserved]

### Subpart 101-48.49—Illustrations of Forms

- 101-48.4900 Scope of subpart.
- 101-48.4901 [Reserved]
- 101-48.4902 GSA forms.
- 101-48.4902-18 GSA Form 18, Application of Eleemosynary Institution.

AUTHORITY: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

SOURCE: 42 FR 55813, Oct. 19, 1977, unless otherwise noted.

### § 101-48.000 Scope of part.

This part prescribes the policies and methods governing the utilization, donation, and disposal of abandoned and forfeited personal property under the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands. In addition to the requirements of this part 101-48, the disposition of

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abandoned and forfeited hazardous materials shall be accomplished in accordance with part 101-42.

[57 FR 39137, Aug. 28, 1992]

### § 101-48.001 Definitions.

For the purposes of this part 101-48, the following terms shall have the meanings set forth in this section.

#### § 101-48.001-1 Abandoned or other unclaimed property.

*Abandoned or other unclaimed property* means personal property that is found on premises owned or leased by the Government and which is subject to the filing of a claim therefor by the former owner(s) within 3 years from the vesting of title in the United States.

#### § 101-48.001-2 Distilled spirits.

*Distilled spirits*, as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), as now in force or hereafter amended, means ethyl alcohol; hydrated oxide of ethyl; or spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof.

#### § 101-48.001-3 Eleemosynary institution.

*Eleemosynary institution* means a non-profit institution organized and operated for charitable purposes whose net income does not inure in whole or in part to the benefit of shareholders or individuals and which shall have filed with the GSA National Capital Region a satisfactory statement establishing such status.

[56 FR 40260, Aug. 14, 1991]

#### § 101-48.001-4 Firearms.

*Firearms*, as defined in 18 U.S.C. 921, as now in force or hereafter amended, means any weapon (including a starter gun) which will, or is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon or any firearm muffler or firearm silencer; or any destructive device. This term does not include an antique firearm.

#### § 101-48.001-5 Forfeited property.

*Forfeited property* means personal property acquired by a Federal agency either by summary process or by order of a court of competent jurisdiction pursuant to any law of the United States.

#### § 101-48.001-6 Malt beverages.

*Malt beverages*, as defined in the Federal Alcohol Administration Act (27 U.S.C. 211), as now in force or hereafter amended, means beverages made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops or their parts or products and with or without other malted cereals; and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared therefrom; and with or without the addition of carbon dioxide; and with or without other wholesome products suitable for human food consumption.

#### § 101-48.001-7 Property.

*Property* means all personal property, including but not limited to vessels, vehicles, aircraft, distilled spirits, wine, and malt beverages.

#### § 101-48.001-8 Voluntarily abandoned property.

*Voluntarily abandoned property* means personal property abandoned to a Federal agency in such a manner as to vest title thereto in the United States.

#### § 101-48.001-9 Wine.

*Wine* means any of the wines defined in sections 5381 and 5385 of the Internal Revenue Code of 1954 (26 U.S.C. 5381, 5385), as now in force or hereafter amended, and other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine; wine made from condensed grape must; wine made from agricultural products other than the juice of sound, ripe grapes; imitation wine; compounds sold as wine; vermouth; cider; perry; and sake. The alcoholic content of these beverages shall not contain less than 7 percent nor more than 24 percent of alcohol by

## § 101-48.001-10

volume and shall not be for industrial use.

### § 101-48.001-10 Drug paraphernalia.

*Drug paraphernalia* means any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Controlled Substances Act (title II of Pub. L. 91-513). It includes items primarily intended or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, hashish oil, PCP, or amphetamines into the human body, such as:

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- (2) Water pipes;
- (3) Carburetion tubes and devices;
- (4) Smoking and carburetion masks;
- (5) Roach clips: Meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- (6) Miniature spoons with level capacities of one-tenth cubic centimeter or less;
- (7) Chamber pipes;
- (8) Carburetor pipes;
- (9) Electric pipes;
- (10) Air-driven pipes;
- (11) Chillums;
- (12) Bongs;
- (13) Ice pipes or chillers;
- (14) Wired cigarette papers; or
- (15) Cocaine freebase kits.

[56 FR 40260, Aug. 14, 1991]

## Subpart 101-48.1—Utilization of Abandoned and Forfeited Personal Property

### § 101-48.100 Scope of subpart.

This subpart 101-48.1 prescribes the policies and methods for utilization and transfer within the Government of forfeited or voluntarily abandoned personal property subject to the provisions of 40 U.S.C. 304f through m, and

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abandoned and other unclaimed property found on premises owned or leased by the Government subject to the provisions of 40 U.S.C. 484(m), which may come into the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, and Trust Territory of the Pacific Islands, or the Virgin Islands. Property in this category located elsewhere shall be utilized and transferred in accordance with the regulations of the agency having custody thereof. This subpart also governs seized and forfeited drug paraphernalia under the provisions of 21 U.S.C. 857(c).

[56 FR 40260, Aug. 14, 1991]

### § 101-48.101 Forfeited or voluntarily abandoned property.

Forfeited or voluntarily abandoned property, subject to the provisions of 40 U.S.C. 304(f) through m, except as otherwise indicated in this subpart 101-48.1, shall be reported and handled in the same manner as excess property under subpart 101-43.3.

### § 101-48.101-1 Sources of property available for utilization.

Property available for utilization under § 101-48.101 is property which is in the custody or under the control of any agency of the U.S. Government, as a result of forfeiture or voluntary abandonment.

### § 101-48.101-2 Custody of property.

(a) GSA generally will not take possession of property that is forfeited or voluntarily abandoned. Such property shall remain in the custody of and be the responsibility of the holding agency.

(b) GSA will direct the disposition of forfeited firearms that are subject to the disposal provisions of 26 U.S.C. 5872(b). GSA authorizes the retention of any such firearm by the Secretary of the Treasury or his delegate for official use.

(c) GSA will direct the disposition of distilled spirits, wine, and malt beverages that are forfeited other than by court decree or by order of a court:

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(1) By transfer to Government agencies which have a need for such beverages for medicinal, scientific, or mechanical purposes, or for any other purpose for which appropriated funds may be expended by a Government agency;

(2) By donation to eleemosynary institutions (as defined in §101-48.001-3) which have a need for such beverages for medicinal purposes; or

(3) By destruction.

(d) GSA will direct the disposition of forfeited drug paraphernalia that is subject to the disposal provisions of 21 U.S.C. 857(c) by ordering such paraphernalia destroyed or by authorizing its use for law enforcement or educational purposes by Federal, State, or local authorities.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40260, Aug. 14, 1991]

### § 101-48.101-3 Cost of care and handling.

Each holding agency shall be responsible for performing care and handling of forfeited or voluntarily abandoned personal property pending disposition.

### § 101-48.101-4 Retention by holding agency.

(a) Subject to the limitations on certain types of passenger vehicles (see §101-43.307-9), a Federal agency may retain and devote to official use any property in its custody that is forfeited other than by court decree or determined by the agency to be voluntarily abandoned. Large sedans and limousines may be retained by an agency and devoted to official use only if such retention is clearly authorized by the provisions of subpart 101-38.1.

(b) A holding agency, when reporting property pursuant to §101-48.101-5, which is subject to pending court proceedings for forfeiture, may at the same time file a request for that property for its official use. A request for only components or accessories of a complete and operable item shall contain a detailed justification concerning the need for the components or accessories and an explanation of the effect their removal will have on the item. Upon receipt of a request, GSA will make application to the court requesting delivery of the property to the holding agency, provided that, when a

holding agency has requested only components or accessories of a complete and operable item, GSA determines that their removal from the item is in the best interest of the Government.

(c) Except where otherwise specifically provided, any property that is retained by a Federal agency for official use under this subpart 101-48.1 shall thereupon lose its identity as forfeited or voluntarily abandoned property. When such property is no longer required for official use, it shall be reported as excess in accordance with §101-43.304.

(Sec. 307, 49 Stat. 880; 40 U.S.C. 3041)

[42 FR 55813, Oct. 19, 1977, as amended at 44 FR 42202, July 19, 1979; 56 FR 40260, Aug. 14, 1991]

### § 101-48.101-5 Property required to be reported.

(a) A Federal agency shall promptly report, in accordance with §101-43.304, property in its custody that is forfeited other than by court decree or voluntarily abandoned and not desired for retention by that agency for its official use and property on which proceedings for forfeiture by court decree are being started or have begun, except that:

(1) Reports shall be submitted to the GSA National Capital Region (mailing address: General Services Administration (3FBP-W), Washington, DC 20407) in lieu of being submitted to the GSA regional office for the region in which the property is located.

(2) The reporting agency's internal documents containing information relevant to the property may be used in lieu of the Standard Form 120, Report of Excess Personal Property; and

(3) Distilled spirits, wine and malt beverages fit for human consumption in quantities of 5 wine gallons or more shall be reported regardless of acquisition cost.

(b) The following information shall be furnished:

(1) Whether property was:

(i) Abandoned;

(ii) Forfeited other than by court decree; or

(iii) The subject of a court proceeding and, if so, the name of the defendant and the place and judicial district of

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the court from which the decree has been or will be issued;

(2) Existence or probability of a lien or claim of lien, or other accrued or accruing charges, and the amount involved; and

(3) If the property is distilled spirits, wine, or malt beverages: Quantities and kinds (rye or bourbon or other whiskey and its brand, if any; sparkling or still wine and its color or brand; cordial, brandy, gin, etc.), proof rating, and condition for shipping.

(c) In addition to the exceptions and special handling described in §§ 101-43.305 and 101-43.307, the following forfeited or voluntarily abandoned property need not be reported:

(1) Forfeited arms or munitions of war which are handled pursuant to 22 U.S.C. 401;

(2) Forfeited firearms which are transferable by the holding agency to the Secretary of Defense;

(3) Abandoned, condemned, or forfeited tobacco, snuff, cigars, or cigarettes which the holding agency estimates will not, if offered for sale by competitive bid, bring a price equal to the internal revenue tax due and payable thereon; and which is subject to destruction or delivery without payment of any tax to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States;

(4) Forfeited distilled spirits (including alcohol), wine and malt beverages not fit for human consumption nor for medicinal, scientific, or mechanical purposes. (Domestic forfeited distilled spirits, wine, and malt beverages which were not produced at a registered distillery, winery, or brewery or which are in containers that have been opened or entered shall be regarded as not fit for human consumption. (See § 101-48.302 for disposition.));

(5) Distilled spirits, wine, and malt beverages in any one seizure of less than 5 wine gallons (see §§ 101-48.201-5 and 101-48.302 for disposition);

(6) Effects of deserters from the Coast Guard or the military services, or of deceased persons of the Coast Guard or the military services, or of deceased inmates of naval or soldiers' homes or Government hospitals;

(7) Seeds, plants, or misbranded packages seized by the Department of Agriculture pursuant to authorities provided by law;

(8) Game and equipment (other than vessels, including cargo) seized by the Department of the Interior pursuant to authorities provided by law;

(9) Files of papers, all dead and undeliverable mail matter, and non-mailable matter in the custody of the Postmaster General;

(10) Infringing articles in the custody of the Patent Office, Department of Commerce;

(11) Unclaimed and abandoned personal property subject to applicable customs laws and regulations;

(12) Collection seizures to satisfy tax liens and property acquired by the United States in payment of or as security for debts arising under the internal revenue laws;

(13) Property, the vesting and disposition of which is controlled by the provisions of 38 U.S.C. 5201 (*et seq.*), Disposition of deceased veterans' personal property; and

(14) Motor vehicles which are 4 or more years old.

(d) The general rule for reporting specified in this § 101-48.101-5 is modified with respect to the following:

(1) Controlled substances (as defined in § 101-43.001-3), regardless of quantity, condition, or acquisition cost, shall be reported to the Drug Enforcement Administration, Department of Justice, Washington, DC 20537;

(2) Forfeited firearms not desired for retention by the seizing agency, except those covered by paragraphs (c) (1) and (2) of this section, shall be reported provided such firearms are in excellent serviceable condition and known to be used for law enforcement or security purposes or are sufficiently unusual to be of interest to a Federal museum. Forfeited firearms not reportable in accordance with the foregoing criteria shall be destroyed and disposed of pursuant to § 101-48.303;

(3) Property forfeited other than by court decree which is suitable for human consumption or which may be used in the preparation of food may be immediately transferred by the agency having custody to the nearest Federal agency known to be a user of such



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property, without specific authorization from GSA;

(4) Vessels of 1,500 gross tons or more which the Maritime Administration determines to be merchant vessels or capable of conversion to merchant use shall be reported to the Maritime Administration;

(5) Property seized by one Federal agency but adopted by another for prosecution under laws enforced by the adopting Federal agency shall be reported by the adopting agency to the extent and in the manner required by this subpart 101-48.1;

(6) Lost, abandoned, or unclaimed personal property controlled by the provisions of 10 U.S.C. 2575 shall be disposed of as provided by 10 U.S.C. 2575 and regulations issued thereunder by appropriate authority; and

(7) Drug paraphernalia seized and forfeited under the provisions of 21 U.S.C. 857, which is not retained for official use by the seizing agency or transferred to another Federal agency under seizing agency authorities, or such drug paraphernalia retained for official use but no longer required by the agency, shall be reported on Standard Form 120 to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

(e) Property not required to be reported pursuant to this §101-48.101-5 and not excepted or modified with respect to reporting pursuant to this §101-48.101-5 shall be handled as set forth in §101-43.305.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40260, Aug. 14, 1991]

### § 101-48.101-6 Transfer to other Federal agencies.

(a) Normally, the transfer of forfeited or voluntarily abandoned personal property shall be accomplished by submitting for approval a Standard Form 122, Transfer Order Excess Personal Property (see §101-43.4901-122), or any other transfer order form approved by GSA, to the General Services Administration (3FBP-W), Washington, DC 20407, for approval.

(b) Except for property which is subject to court action, the transfer order shall indicate the agency having custody of the property, the location of the property, the report or case num-

ber on which the property is listed, the property required, and the fair value, if applicable.

(c) Property subject to court action may be requested by submitting a transfer order or a letter setting forth the need for the property by the agency. If proceedings for the forfeiture of the property by court decree are being started or have begun, application will be made by GSA to the court, prior to entry of a decree, for an order requiring delivery of the property to an appropriate recipient for its official use.

(d) Transfers of forfeited or voluntarily abandoned distilled spirits, wine, and malt beverages shall be limited to those for medicinal, scientific, or mechanical purposes or for any other official purposes for which appropriated funds may be expended by a government agency. Transfer orders shall be signed by the head of the requesting agency or a designee. Where officials are designed to sign, the General Services Administration (3FBP-W), Washington, DC 20407, shall be advised of designees by letter signed by the head of the agency concerned. No transfer order will be acted upon unless it is signed as provided herein.

(e) Transfer orders requesting the transfer of forfeited or voluntarily abandoned firearms shall set forth the need for the property by the requesting agency.

(f) Transfer orders requesting the transfer of reportable forfeited drug paraphernalia shall be submitted to the General Services Administration, Property Management Division (FBP), Washington, DC 20406, for approval. Transfers will not be approved unless the Standard Form 122 or other transfer document contains a certification that the paraphernalia will be used for law enforcement or educational purposes only.

(g) Any property transferred for official use under this subpart 101-48.1, with the exception of drug paraphernalia, shall thereupon lose its identity as forfeited or voluntarily abandoned property. When no longer required for official use, it shall be reported as excess in accordance with §101-43.304. Drug paraphernalia shall

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not lose its identity as forfeited property. When no longer required for official use, it shall be reported in accordance with § 101-48.101-5(d)(7).

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

#### **§ 101-48.101-7 Reimbursement and costs incident to transfer.**

(a) Reimbursement upon transfer of personal property forfeited or voluntarily abandoned other than by court decree shall be in accordance with § 101-43.309-3.

(b) Reimbursement for judicially forfeited property shall be in accordance with provisions of the court decree.

(c) Commercial charges incurred at the time of and subsequent to forfeiture or voluntary abandonment but prior to transfer shall be borne by the transferee agency when billed by the commercial organization.

(d) The direct costs incurred by the holding agency prior to the transfer of forfeited or voluntarily abandoned property shall be borne by the transferee agency when billed by the holding agency. Overhead or administrative costs or charges shall not be included. Only costs set forth in 40 U.S.C. 304j, such as storage, packing, preparation for shipment, loading, and transportation shall be recovered by the holding agency.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

#### **§ 101-48.101-8 Billing.**

(a) Each holding agency shall be responsible for billing and collecting the costs of care and handling, as well as the fair value of property transferred to other agencies, when such reimbursement is required in accordance with § 101-43.309-3.

(b) Commercial organizations accruing charges prior to transfer shall be responsible for billing and collecting these charges from the transferee agency.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

#### **§ 101-48.101-9 Disposition of proceeds.**

Where reimbursement for fair value is to be made in accordance with § 101-43.309-3, the fair value proceeds shall be

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deposited in the Treasury to miscellaneous receipts or in the appropriate agency account by the transferor agency.

[56 FR 40261, Aug. 14, 1991]

#### **§ 101-48.102 Abandoned or other unclaimed property.**

##### **§ 101-48.102-1 Vesting of title in the United States.**

Abandoned or other unclaimed property, subject to the provisions of section 203(m) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(m)), shall remain in the custody of and be the responsibility of the agency finding such property. The property shall be held for a period of 30 days from the date of finding such property. Upon expiration of this 30-day period, title to such property vests in the United States, except that title reverts to the owner where a proper claim is filed by the owner prior to official use or transfer for official use and, if there is no official use or transfer for official use, prior to sale of the property.

##### **§ 101-48.102-2 Reporting.**

(a) Abandoned or other unclaimed property not utilized by the holding agency shall be reported and handled in the same manner as excess property under subpart 101-43.3, except as provided in § 101-48.102-2(b).

(b) Abandoned for other unclaimed property which, by the provisions of § 101-43.304, is not required to be reported and which is not otherwise transferred pursuant to subpart 101-43.3, shall be subject to the provisions of subpart 101-48.3.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40261, Aug. 14, 1991]

##### **§ 101-48.102-3 Reimbursement.**

Reimbursement of fair market value, as determined by the head of the finding or transferor agency, shall be required in connection with official use by the finding agency or transfer for official use of abandoned or other unclaimed property. Fair market value as used herein does not mean fair value as determined under § 101-43.309-3.

[56 FR 40261, Aug. 14, 1991]

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### § 101-48.102-4 Proceeds.

Reimbursement for official use by the finding agency or transfer for official use of abandoned or other unclaimed property shall be deposited in a special fund by the finding or transferor agency for a period of at least 3 years. A former owner may be reimbursed from the special fund, based upon a proper claim made to the finding or transferor agency and filed within 3 years from the date of vesting of title in the United States. Such reimbursement shall not exceed fair market value at the time title was vested in the United States, less the costs incident to the care and handling of such property as determined by the head of the agency concerned.

## Subpart 101-48.2—Donation of Abandoned and Forfeited Personal Property

### § 101-48.200 Scope of subpart.

This subpart 101-48.2 prescribes the policies and methods governing the donation by Federal agencies of abandoned and forfeited property in their custody or control in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands.

### § 101-48.201 Donation of forfeited distilled spirits, wine, and malt beverages.

#### § 101-48.201-1 General.

Forfeited distilled spirits, wine, and malt beverages for which there is no Federal utilization shall be made available to appropriate eleemosynary institutions prior to other disposition.

#### § 101-48.201-2 Establishment of eligibility.

Eleemosynary institutions desiring to obtain available distilled spirits, wine, and malt beverages shall submit GSA Form 18, Application of Eleemosynary Institution (see § 101-48.4902-18), to the General Services Administration (3FBP-W), Washington, DC 20407. The Office of Management and Budget Ap-

proval Number 3090-0001 has been assigned to this form.

[56 FR 40261, Aug. 14, 1991]

### § 101-48.201-3 Requests by institutions.

Eligible institutions desiring to obtain available distilled spirits, wine, and malt beverages shall show on the GSA Form 18, Application of Eleemosynary Institution, the kind and quantity desired. The GSA National Capital Region will inform the eligible institution when these alcoholic beverages become available, request confirmation that the institution's requirement is current, and inform the institution that shipment will be initiated upon this confirmation.

[56 FR 40261, Aug. 14, 1991]

### § 101-48.201-4 Filling requests.

The GSA National Capital Region will authorize the seizing agency to fill such requests as the region may determine proper to ensure equitable distribution among requesting institutions.

[56 FR 40262, Aug. 14, 1991]

### § 101-48.201-5 Donation of lots not required to be reported.

Forfeited distilled spirits, wine, and malt beverages not required to be reported under § 101-48.101-5 may be donated to eleemosynary institutions known to be eligible therefor if the beverages are determined by the seizing agency to be suitable for human consumption. The holding agency shall promptly report these donations by letter to the General Services Administration (3FBP-W), Washington, DC 20407. This report shall state the quantity and type donated, the name and address of the donee institution, and date of the donation.

[56 FR 40262, Aug. 14, 1991]

### § 101-48.201-6 Packing and shipping costs.

The receiving institution shall pay all costs of packing, shipping, and transportation.

## **§ 101-48.202**

### **§ 101-48.202 Donation of forfeited drug paraphernalia.**

(a) Forfeited drug paraphernalia for which there is no Federal utilization may be made available through State agencies, at the discretion of GSA, to State and local governments for law enforcement or educational purposes only. Donations will be made in accordance with part 101-44, except as otherwise provided in this subpart 101-48.2.

(b) All transfers of drug paraphernalia to the State agencies for donation to State and local governments shall be accomplished by use of SF 123, Transfer Order Surplus Personal Property (see §101-44.4901-123). The SF 123 shall be accompanied by a letter of justification, signed and dated by the authorized representative of the proposed donee, setting forth a detailed plan of utilization for the property and certifying that the donee will comply with all Federal State, and local laws, regulations, ordinances, and requirements governing use of the property. The SF 123, with the letter of justification, shall be submitted for approval to the General Services Administration, Property Management Division (FBP), Washington, DC 20406.

(c) A State agency shall not pick up or store drug paraphernalia in its distribution centers. This property shall be released from the holding agency directly to the designated donee.

[56 FR 40262, Aug. 14, 1991]

## **Subpart 101-48.3—Disposal of Abandoned and Forfeited Personal Property**

### **§ 101-48.300 Scope of subpart.**

This subpart 101-48.3 prescribes the policies and methods governing the disposal of abandoned or other unclaimed, voluntarily abandoned, or forfeited personal property which may come into the custody or control of any Federal agency in the United States, the Commonwealth of Puerto Rico, American Samoa, Guam, the Trust Territory of the Pacific Islands, or the Virgin Islands. Property in this category located elsewhere shall be disposed of under the regulations of the agency having custody thereof.

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### **§ 101-48.301 General.**

Any property in the custody of a Federal agency which is not desired for retention by that agency nor utilized within any Federal agency in accordance with subpart 101-48.1 nor donated in accordance with subpart 101-48.2 shall be disposed of in accordance with the provisions of this subpart 101-48.3

### **§ 101-48.302 Distilled spirits, wine, and malt beverages.**

(a) Distilled spirits, wine, and malt beverages (as defined in §101-48.001) which are not required to be reported under §101-48.101-5(c)(4) shall be destroyed as prescribed in §101-48.302(b); distilled spirits, wine, and malt beverages which are not required to be reported under §101-48.101-5(c)(5) and which have not been donated as prescribed in subpart 101-48.2 shall be destroyed in like manner.

(b) When reportable abandoned or forfeited distilled spirits, wine, and malt beverages are not retained by the holding agency, transferred to another agency, or donated to an eligible eleemosynary institution by GSA, the GSA National Capital Region will issue clearance to the agency which submitted the report as prescribed by §101-48.101-5 for destruction of the distilled spirits, wine, and malt beverages. A record of the destruction showing time, place, and nomenclature and quantities destroyed shall be filed with papers and documents relating to the abandonment or forfeiture.

[42 FR 55813, Oct. 19, 1977, as amended at 56 FR 40262, Aug. 14, 1991]

### **§ 101-48.303 Firearms.**

Abandoned or forfeited firearms or voluntarily abandoned firearms shall not be sold as firearms. They may be disposed of by sale as scrap in the manner prescribed in §101-45.309-4.

### **§ 101-48.304 Drug paraphernalia.**

(a) When forfeited drug paraphernalia is neither utilized within any Federal agency in accordance with subpart 101-48.1 nor donated in accordance with subpart 101-48.2, GSA will issue clearance to the reporting agency to destroy the items. The destruction shall be performed by an employee of the holding

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agency in the presence of two additional employees of the agency as witnesses to the destruction. A statement of certification describing the fact, manner, date, type, and quantity destroyed shall be certified to by the agency employee charged with the responsibility for that destruction. The two agency employees who witnessed the destruction shall sign the following statement which shall appear on the certification below the signature of the certifying employee:

"I have witnessed the destruction of the (list the drug paraphernalia) described in the foregoing certification in the manner and on the date stated herein:"

Witness	Date
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Witness	Date
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(b) The signed certification and statement of destruction shall be made a matter of record and shall be retained in the case files of the holding agency.

[56 FR 40262, Aug. 14, 1991]

### § 101-48.305 Property other than distilled spirits, wine, malt beverages, firearms, and drug paraphernalia.

(a) Property forfeited other than by court decree or voluntarily abandoned, except distilled spirits, wine, malt beverages, firearms, and drug paraphernalia, which is not returned to a claimant, retained by the agency of custody, or transferred in accordance with subpart 101-48.1 may be released to the holding agency by the GSA National Capital Region for public sale, except as otherwise provided by law.

(b) Abandoned or other unclaimed property which is not retained by the holding agency, not transferred to another agency, or not required to be reported by the provisions of § 101-48.102, may be reported for sale to the appropriate selling activity at any time after title vests in the United States as provided in § 101-48.102-1.

(c) Voluntarily abandoned, abandoned, or other unclaimed property and, in the absence of specific direction by a court, forfeited property, normally shall be sold by competitive bid as prescribed in § 101-45.304-1, subject to the same terms and conditions as would be applicable to the sale of sur-

plus personal property. Voluntarily abandoned, abandoned, or other unclaimed property and forfeited property may be sold also by negotiation at the discretion of the selling agency but only under the circumstances set forth in § 101-45.304-2. Such property shall be identified by the holding agency as abandoned or other unclaimed, voluntarily abandoned, or forfeited property, and shall be reported for sale to the appropriate GSA regional office or to such other agency as otherwise is responsible for selling its surplus personal property unless specifically required by law to be sold by the holding agency.

[56 FR 40262, Aug. 14, 1991]

### § 101-48.306 Disposition of proceeds from sale.

#### § 101-48.306-1 Abandoned or other unclaimed property.

(a) Proceeds from sale of abandoned or other unclaimed property shall be deposited in a special fund by the finding agency for a period of 3 years. A former owner may be reimbursed for abandoned or other unclaimed property which had been disposed of in accordance with the provisions of this subpart 101-48.3 upon filing a proper claim with the finding agency within 3 years from the date of vesting of title in the United States. Such reimbursement shall not exceed the proceeds realized from the disposal of such property less disposal costs and costs of the care and handling of such property as determined by the head of the agency concerned.

(b) Records of abandoned or other unclaimed property shall be maintained in such a manner as to permit identification of the property with the original owner, if known, when such property is offered for sale. Records of proceeds received from the sale of abandoned or other unclaimed property shall be maintained as part of the permanent file and record of sale until the 3-year period for filing claims has elapsed.

[56 FR 40262, Aug. 14, 1991]

## **§ 101-48.306-2**

### **§ 101-48.306-2 Forfeited or voluntarily abandoned property.**

Proceeds from sale of property which has been forfeited other than by court decree, by court decree, or which has been voluntarily abandoned, shall be deposited in the Treasury of the United States as miscellaneous receipts or in such other agency accounts as provided by law or regulations.

[56 FR 40262, Aug. 14, 1991]

### **Subparts 101-48.4—101-48.48 [Reserved]**

### **Subpart 101-48.49—Illustrations of Forms**

#### **§ 101-48.4900 Scope of subpart.**

This subpart illustrates forms prescribed for use in connection with subject matter covered in this part 101-48.

#### **§ 101-48.4901 [Reserved]**

#### **§ 101-48.4902 GSA forms.**

(a) GSA Form 18, Application of Eleemosynary Institution, is illustrated in this § 101-48.4902 to show the text, format, and arrangement of the form and to provide a ready source of reference.

(b) Copies of the GSA Form 18 may be obtained from the General Services Ad-

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ministration (WDP), Washington, DC 20407.

[42 FR 55813, Oct. 19, 1977, as amended at 46 FR 39593, Aug. 4, 1981]

### **§ 101-48.4902-18 GSA Form 18, Application of Eleemosynary Institution.**

NOTE: The form illustrated at § 101-48.4902-18 is filed with the original document.

## **PART 101-49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS**

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

SOURCE: 65 FR 45539, July 24, 2000, unless otherwise noted.

### **§ 101-49.000 Cross-reference to the Federal Management Regulation (FMR) (41 CFR chapter 102, parts 102-1 through 102-220).**

For information on utilization, donation, and disposal of foreign gifts and decorations previously contained in this part, see FMR part 42 (41 CFR part 102-42).

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